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ABSTRACT

This booklet contains 15 lessons to infuse the study of law and citizenship education into an eighth grade social studies curriculum. The lessons are designed to encourage inquiry among the students and to use community resource people, particularly attorneys. Through these lessons, teachers can build support for democratic values, while students are developing skills needed by today's citizens. Individual lessons cover constitutional rights, the Bill of Rights, legislation development, the interaction of federal, state, and local governments, handgun control, the death penalty, juveniles and the law, civil law, due process, trials, law enforcers, and the First Amendment to the U.S. Constitution. Each lesson includes an introduction, objectives, resource materials, and activities. The activities include case studies, surveys, a mock trial script, and discussion questions. The booklet also contains a teacher checklist for classroom visitors, a guideline for resource experts, suggestions for handling controversy, and guidelines for small group work. (DJC)

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STUDENTS, TEACHERS, LAWYERS

working together

We The People

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Law-Related Lessons on Teaching the Constitution

CONSTITUTIONAL RIGHTS FOUNDATION

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INTRODUCTION

8th Grade Book

The U.S. Constitution with its Bill of Rights set forth the basic principles of our democratic constitutional order. It is from these documents that our fundamental political concepts are derived. Social studies programs should not indoctrinate students to accept ideas blindly, but rather to present knowledge about their historical roots and to show contemporary application of them.

While students are expected to learn about U.S. history and pass a Constitution test, materials and models are not always accessible for teachers to make this more than a "rote" learning experience. Therefore, there is a need to make available "hands-on" supplementary materials for teacher and student use and to provide an opportunity to practice prescribed strategies.

In cooperation with the Young Lawyers' Section of the Chicago Bar Association, the Constitutional Rights Foundation (CRF)/Chicago has developed a program for 8th grade students to combat the apathy often attributed to American youth toward law and government and to regenerate their interest in society and support for American values. The program consists of 15 interactive lessons on the Constitution and training for teachers and resource persons who will visit 8th grade classrooms.

The lessons in this book are designed to fit into the existing curricula. The activities were chosen as exemplary lessons to infuse the study of law and citizenship education into 8th grade social studies and make the Constitution a truly living document. The lessons selected for the program encourage inquiry and use community resource persons, particularly attorneys, so that teachers can build support for democratic values while at the same time develop skills needed by citizens in today's society.

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SUMMARY OF RECENT LAW-RELATED EDUCATION
EVALUATION FINDINGS AND THEIR IMPLICATIONS FOR TEACHING

The Office of Juvenile Justice and Delinquency Prevention funded the Center for Action Research and the Social Science Education Consortium (both of Boulder, CO) to evaluate the delinquency prevention impact on youth of three law-related education curriculum projects, the Constitutional Rights Foundation, Law in a Free Society/Center for Civic Education and the National Institute for Citizen Education in the Law, and two support projects, the American Bar Association/Youth Education for Citizenship Committee and Phi Alpha Delta. The results indicate that, when properly taught, LRE can help reduce delinquent behavior.

The evaluation team identified six features of effective programs. The greater the presence of these features in implementing classrooms, the more likely LRE is to have a delinquency prevention impact.

These same features probably characterize high quality LRE when measured in other terms such as knowledge gain, development of citizenship competencies and participation skills, and improvement in attitudes toward the legal system. The six major features are:

1. ADEQUATE PREPARATION AND USE OF OUTSIDE RESOURCE PERSONS

   Findings from the 1982-83 school year indicate that appropriate use of visitors was more stongly associated with reductions in delinquency than was any other classroom practice. However, most visitors are not trained teachers, so great care must be taken to ensure that they have optimal impact. The evaluators specifically recommend:

   (a) Topics covered by outside resource persons should be relevant to the rest of the course and fit in sequence with material presented.

   (b) The principal mode of visitors' in-class activity should be interaction with the students.

   (c) Visitors should present a balanced picture of the part of the system they know best, neither claiming infallibility nor unduly emphasizing "horror stories."

   (d) Visitors should receive advance preparation not only in fitting their content into the course as a whole, but in effective interactive teaching strategies -- specifically, in techniques for reaching the whole class, not just a handful of particularly receptive students.

   (e) In advance of a visit by an outside resource person, students should receive preparation to maximize their thoughtful participation when the visitor is present (e.g., having each student come in with a list of questions for possible use on the day of the visit).

2. USE OF TEACHING STRATEGIES THAT FOSTER TRUE INTERACTION AND JOINT WORK AMONG STUDENTS

The variety of available LRE teaching methods holds promise for engaging a wider audience of student learners. Care must be taken, however, to lay a proper substantive foundation before engaging students in the activities. A class characterized by activities strung together without suitable groundwork, may please students but is not likely to result in gains in knowledge, improvement in thinking or analytic skills, or positive shifts in beliefs or behavior.

In general, teachers should seek to develop an appropriate mix of cooperative (small group), independent and competitive learning opportunities. (See Small Group Work for guidelines.)

An ideal opportunity for fostering student interaction occurs when a controversial issue arises in class. Not surprisingly such issues are common in LRE classes. However, the evaluators have found that many teachers tend to avoid engaging students in controversial issues. They avoid controversy by "providing the answer" or increasing the level of abstraction of the issue until it is no longer controversial. Effective citizenship programs must focus directly on responsible ways to deal with controversy. (See Suggestions for Handling Controversy for Guidelines.)

Finally, student participation will be maximized when teachers provide equal "wait time" when questioning various levels of students. The tendency is to provide greater wait time when questioning a stronger student (because the teacher expects an answer) and less when questioning a weaker student (which makes the "statement" that the teacher really does not expect an answer).

3. JUDICIOUS SELECTION AND PRESENTATION OF ILLUSTRATIVE CASE MATERIALS

In the selection and presentation of case material, instructors should avoid presenting the system as either infallible or nightmarish. Failure to make selections based on balance may result in an overly negative view of the system which can increase student cynicism and reduce respect for the law. Where an honest, objective view is necessarily negative, teachers should include specific instruction on remedies available to citizens to improve the legal system.

This issue of balance often arises in connection with a visit from a resource person. Some resource persons, not thoroughly briefed on this issue have at times defensively claimed perfection for their part of the legal system; others have spent entire class periods telling horror stories. Balance is the key.

4. PROVISION OF SUFFICIENT QUANTITY AND QUALITY OF INSTRUCTION

With respect to quantity, the evaluators suggest that a weekly or bi-weekly lesson from LRE materials may increase knowledge minimally but is unlikely to have much impact beyond that. They recommend a full semester of instruction or careful integration of LRE's substance and methods into a year-long courses.

In terms of quality, the evaluators have focused on: (a) checking for practice and understanding; (b) stating objectives and establishing a mental set; and (c) providing adequate depth and density of coverage.

Teachers in the most effecive LRE classes checked frequently and thoroughly for student understanding as a safeguard against moving too rapidly through the material.

In the most effective classes, students knew: (a) what they were going to learn; (b) why they were going to learn it; and (c) how it fit into the overall topic being covered.

Learning is positively correlated with "time on task." Where the purpose of a lesson is made clear and directions for an activity are explicit, there is less time off task--and therefore greater learning.

Most LRE teachers have not had an opportunity for systematic professional study of the legal topics they teach. For this reason, there is a tendency to treat legal substance in a cursory, superficial manner, leading to student frustration and misunderstanding. Covering topics in depth will require: (a) greater technical knowledge of the law; (b) skills in managing ambiguity and controversy; and (c) skills in organizing difficult material. Resource persons, LRE project sponsored inservice programs, and self-study can be helpful here. Trying to cover certain legal topics in such depth can lose and/or bore students. Prudent treatment of a topic should be followed by checking for understanding (using examples and opportunities for practice but stopping short of such depth that diminishing returns set in) and a careful synthesis (explaining how this lesson fits into the material that precedes and follows it in the courses).

5. AVAILABILITY AND USE BY TEACHERS OF PROFESSIONAL PEER SUPPORT

Teachers called upon to be innovative in the midst of others pursuing a more conventional course are likely to require uncommon levels of support from their peers. This support can be developed by providing training to teams of teachers from the same building, by arranging for classroom visits from a supportive district social studies supervisor or other curriculum administrator, or by scheduling on-going follow-up sessions with state or local LRE project staff.

When more than one teacher in the same building is trained, opportunities arise for joint lesson planning, cooperative use of visits from resource persons and trips off school grounds, and classroom observation and provision for feedback. A team may also be more likely than a single teacher to be able to generate support for LRE from other teachers and administrators. In addition, the team gives the program more stability; the departure of one teacher via transfer or retirement does not leave a school wihout a trained LRE instructor.

District-wide seminars and social functions for all LRE teachers and resource personshave can provide necessary peer support, reducing feelings of isolation and strengthening teachers' commitments to LRE's innovative methods and substance.

6. ACTIVE INVOLVEMENT OF BUILDING ADMINISTRATORS

Effective LRE classes were located in schools where building administrators assisted in providing classroom resources, facilitated field-trips and the use of outside resource persons, and dealt with concerns voiced by other teachers or by members of the community.

Administrators can also be helpful in reducing the gap that can exist between school governance policies and ideas of justice and constitutional due process taught in LRE classes. Finally, informed, supportive administrators will not use LRE classes as "dumping grounds" for troublesome students. However, to satisfy this recommendation, administrators must become aware of LRE's theory and practice. This can be achieved through having administrators attend LRE conferences or in-service workshops, visit LRE teachers or project staff, or read LRE's descriptive/explanatory materials.

Although we will probably never be able to boil successful education down to an exact formula, we have some notion of what works and what doesn't. These recommendations are a challenge to reassess and where necessary to refine our practices.

CHART ON LESSONS

Key: large group = a teacher or resource person-led discussion.

small group = groups of 3-5 students completing a specific task.

role play = students "acting out" a specific part.

Title	Content	Method	Resource Person
Class Poll on Constitutional Rights	Bill of Rights	individual survey/ large group	yes/ attorney
A Visitor from Outer Space	Bill of Rights	small group	yes/ attorney
No Vehicles in the Park: Interpreting the Law and new extension	lawmaking and interest groups/ lawmaking	small group/ role play	yes/ attorney, legislator/ lobbyist
Claim Your Powers	powers of federal branches	whole class game	none
Mindwalk Through the School Day	regulations and power of the local, state, federal governments	large group	yes/attorney, local legislator
Bill of Rights Cases	Bill of Rights	large group	yes/ attorney
Handgun Control	second amendment and lawmaking	small and large group	yes/attorney, police
The Death Penalty: Eighth Amendment	eighth amendment	human graph, individual survey, class debate	yes/ attorney
Just the Facts: Judicial Branch and the Law	federal judiciary	individual, large group	none

Title	Content	Method	Resource Person
Should Juveniles Be Transferred?	juvenile law	small and large group	yes/ attorney
The People vs. Ward	judicial procedure	role play	yes/attorney, police
Stretching Constitution	constitutional change	small or large group	yes/ attorney legislator
Human Book on Civil Law	civil law	small group	yes/ attorney
Call the Police	police procedure	role play, large group	yes/police attorney
Rights at the Schoolhouse Gate: The Tinker Case	first amendment	individual, small group	yes/ attorney

CHECKLIST FOR A CLASSROOM VISIT (FOR TEACHERS)

Here is a checklist of suggested procedures that help ensure a successful classroom visit by a resource person. The key to success is to share information and ideas with your guest in advance and to plan ahead for whatever special materials and equipment will be needed. This checklist can be adapted to fit a field trip.

A. Briefing the resource person

1. Characteristics of the class or group (age, grade level, size, socioeconomic background, legal and political sophistication)
2. Context of presentation (topics currently or previously studied, where this presentation fits in, goals and objectives of presentations)
3. Restrictions and special considerations (amount of time available, size and setup of room, availability of special equipment, presence in the group of students with physical or other impairments)
4. Appropriate or preferred instructional strategies (lecture, lecture/discussion, panel discussion, debate, role-play, mock trial, case study, games, other)

B. Arranging for materials and equipment

5. Print materials (titles and quantities needed, whether duplication will be required, arrangements for necessary duplication)
6. Nonprint materials (slides or filmstrips that might need to be ordered or reserved, equipment, newsprint pads, marking pens, etc.)

C. Preparing the class

7. Reading or handouts that might need to be read and/or discussed before the visit
8. Questions that need to be prepared in advance by students or teacher
9. Procedures for special strategies (role-play, mock trial) that require advance explanation or discussion

D. Planning for follow-up activities

10. Consultation with resource person about follow-up extension of activities, debriefing techniques or evaluation procedures.

Adapted with permission from "Involvement: A Practical Handbook for Teachers" (Carroll County Public Schools and Maryland Bar Association, 1976).

GUIDELINES FOR RESOURCE EXPERTS

A. Hints for Working with Students

1. The first 5 minutes of the presentation may very well make or break the success of the presentation. It is essential that the first information be presented in a dynamic and interesting manner. This does not mean oversimplify, rather speak in layman terms.

2. Remember that your audience will be greatly concerned with information that touches their lives. They will respond little or not at all to facts and information that have little relevance to them.

3. Be relaxed and friendly so that you can gain the students' interest and get positive reaction quickly.

4. Encourage student participation. Avoid lecturing.

5. Be yourself! Try to incorporate personal reflections. Some examples of questions you might want to answer include the following: "Why did you become a lawyer, police officer, consumer advocate, etc.?" "How has the job affected your life?" -"Your family?" "What has been your most frightening experience on the job?" -"Your happiest?"

6. Remember that no one has all the answers. If a question is asked that is not a part of your expertise, do not hesitate to admit that you do not know.

7. Show that the law is a dynamic, evolutionary force. The presentation need not constitute an unbending defense of the system as it exists today.

B. Ways to Participate in the Classroom

1. Critique a role-playing simulation dealing with particular aspects of the legal process.

2. Help prepare and/or participate in a mock trial.

3. Participate in a socratic discussion, challenging students to think through all the ramifications of a legal problem.

4. Serve as a participant or moderator in a panel discussion or debate.

5. Serve as a resource expert on procedures or legal issues that may have arisen during a class discussion.

C. Ways to Involve Students on Field Trips

1. Provide questions or cases involving young people which relate to the subject to be discussed and the work of the agency.

2. Give students hypothetical or actual case(s) and let them decide how to handle the case(s) - put them in the shoes of a police officer, lawyer, parole officer, consumer advocate, etc.

3. In place of or in addition to a tour, students may be paired off and follow one of your personnel through a normal day.

4. Provide time at the end of the visit for a debriefing of the day's activities.

SUGGESTIONS FOR HANDLING CONTROVERSY

1. Recognize the legitimacy of controversy: DON'T AVOID IT

2. Develop specific rules for handling controversy by establishing:
   a. rules of evidence
   b. orderly ways of proceeding
   c. means of closure
   d. ways of maintaining a cohesive classroom while disagreeing

3. Make the nature of the disagreement clear by:
   a. identifying the issue(s)
   b. identifying areas of agreement and disagreement
   c. identifying the assumptions
   d. avoiding slogans
   e. being concrete
   f. distinguishing between law and policy

4. Argue ideas, not personalities
   a. represent opposite position fairly and accurately
   b. admit doubts and weaknesses in your position (what questions do you have)
   c. concentrate on evidence
   d. attempt to understand the other perspective

SOME OPINIONS ARE BETTER THAN OTHERS WHEN:

1. supported by facts
2. argument is logical
3. clear definition of terms
4. parallels to similar situations

CLASSROOM STRATEGIES INCLUDE: discussion, debate, mediation, anonymous writing, arguing for the "other" side

CONTENT FOR EXAMINING CONTROVERSY INCLUDES: contemporary issues, historical situations, hypotheticals

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Adapted from check sheets developed by the National Institute for Citizen Education in the Law and the Center for Action Research

SMALL GROUP WORK

The use of small groups has been the key to success in such fields as athletics and drama, because it requires each person to do his/her job and help others to improve their own. The final product, the result of several people's joint "best efforts," is better than what each of the individuals could do alone.

Small group work or team efforts in more traditional academic settings have often been criticized because there is a tendency for only one or two members of a group to do the work when it is not carefully structured. When the work is carefully structured, however, case studies, simulations, and mock trials all work well because they call for truly cooperative work.

The following are some concrete suggestions for using small groups effectively in LRE:

1. Students must have the knowledge and skills necessary to do the work.
2. Instructions to the group must be very clear. It is unlikely that the group will be able to follow more than one or two instructions at one time.
3. Students must be given enough time to complete the assigned task. Teachers should think creatively (in advance) about ways to occupy groups that finish ahead of other groups.
4. The small groups should each contain from two to five students, and two or three when a complicated written product is the intended outcome.
5. Teachers should strike a balance between independent and cooperative learning. Small groups should only be used for tasks calling for cooperative work - not independent work.
6. Teachers should make small group work a norm in the classroom, not a radical, once-in-a-lifetime departure from the "lecture and recite" method of teaching.
7. Teachers should consider how their reward/evaluation strategies impact upon the use of small groups. They should be able to provide group rewards for group efforts.
8. Teachers should be explicit in dealing with the management issues within groups. If someone must report back to the class on the group's work, there should be a process for selecting the reporter at the outset.
9. Teachers (and those in classrooms around them) should be prepared for the noise level which occurs during cooperative learning activities.
10. In forming groups, heterogeneous groups are usually desirable.
11. Teachers should circulate and observe/evaluate what is occurring in the groups.

CLASS POLL ON CONSTITUTIONAL RIGHTS

Introduction

Most Americans indicate a high level of support for general statements of individual rights, yet when applied to specific and often controversial situations, much of this support diminishes. Why is this? This activity helps students explore this phenomenon by taking part in a class poll on constitutional rights.

Objectives

- To define and understand some of the protections afforded Americans in the Bill of Rights.
- To interpret data related to general and specific rights.
- To explore why there is typically more support for general rights than there is for their specific applications to controversial issues.

Materials

Survey on general and specific constitutional rights

Procedure

1. Hand out the survey. Have students read each statement and mark "A" for agree next to those statements they agree with and "D" next to the statements they disagree with. They should respond to each item quickly with the first answer that comes to mind. Indicate to the students that this is not a test of knowledge. Tell the students to leave their name off the survey. This enables the class tally to be anonymous.

2. Collect the surveys and hand them back out again, making sure that no one gets his own sheet back. By a show of hands, quickly tally how many people agreed and disagreed with each survey item. Put the results on the board.

3. In either large or small group discussion, ask the students to categorize and interpret the tally results.

QUESTIONS FOR DISCUSSION

1. What specific freedom is addressed in each question? For example, question #1 on speaking out against the government relates to the first amendment's protection of free speech.

2. Which of the questions received the most support from the class? Is there a pattern to these questions? For example, is there more support for the general statements (odd-numbered statements) than for the specific statements (even-numbered statements)? Ask the students to speculate about why there is more support for the general statements, than for the specific applications of constitutional rights.

3. Summarize how the class feels about constitutional rights.

4. What reasons can be used to explain the views of the class on constitutional rights? Several "probe" questions should be used here. Are there any particular problems in the community that are reflected in the students' views? Is there more support for the statements that relate to young people?

SURVEY

1. People should be able to make speeches against the government.

2. Members of the U.S. Communist Party want "equal time" during a July 4 celebration to make speeches against the United States. It would be right for the government to prevent them from making the speeches.

3. People have the right not to be sentenced to cruel and unusual punishments.

4. A murderer who tortures his victim deserves to be tortured as punishment.

5. The police should not be able to search a person's house whenever they feel like it.

6. Even without a warrant, experienced policepersons should be able to search the home of a known drug dealer if they have reason to believe he is selling drugs to young children.

7. A newspaper should be able to print the news even if the government does not like some of the articles.

8. Newspapers that urge people to adopt a communist government in the United States should be banned.

9. People should be able to join any religion they want.

10. In a major war, all eligible people should have to fight for the United States even if their religion forbids killing.

11. The government should have to prove that a person has committed a crime before he is sent to jail.

12. Known troublemakers should be put in jail if the government has a good reason to believe that they will break the law in the future.

13. An individual should be able to ask questions of a person who is providing testimony in court against that individual.

14. To protect the privacy of crime victims, the government should be allowed to submit a written report from the victim, instead of having him have to look at the criminal in court.

TALLY INSTRUCTIONS

The survey is designed so that the odd-numbered statements relate to general rights and the even-numbered statements relate to specific applications of constitutional rights. An "agree" for the odd-numbered statements means the student supports that general constitutional right. An "agree" for an even-numbered statement means the student does not support the specific application of a constitutional right.

For example, a student who agrees with #1 supports free speech, yet if he agrees with #2, then the student does not support that specific application of free speech.

SURVEY STRUCTURE

The following is a list of what topic/amendment is addressed in each of the pairs of survey statements. Please note that the odd-numbered statements are the general rights, while the even-numbered statements are the specific applications.

1 and 2/free speech, first amendment
3 and 4/punishment, eighth amendment
5 and 6/search, fourth amendment
7 and 8/press, first amendment
9 and 10/religion, first amendment
11 and 12/ due process, fifth amendment
13 and 14/confront witnesses, sixth amendment

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A VISITOR FROM OUTER SPACE

Introduction

This activity requires students to think about the relative importance of the guarantees of the Bill of Rights by having them select five that they would surrender to a "visitor from outer space." It can be used as an introductory and/or concluding activity to the study of the Bill of Rights.

Objectives

- To stimulate examination of values about the guarantees of the Bill of Rights.
- To develop understanding of the interrelationships among individual rights.
- To understand the strengths and weaknesses of deciding by consensus vs. majority rule.

Materials

Handout: A Visitor from Outer Space

Procedure

1. Distribute handout. Read through the instructions and ask students to make their selections. Students should work in groups of five to six. If necessary, clarify unfamiliar vocabulary words. Try having them agree on the same five, and once they agree, they may combine with another group to try to reach a larger consensus.

2. List the ten rights on the board and poll the class on their ranking of each freedom. Ask students to give the reasoning behind their choices. Pose questions based on student responses.

   NOTE : Many students may argue that some of the rights imply others. Therefore, they try to keep them all. As the students discuss, they will begin "interpreting" what each right means today. Will the new rulers have the same interpretation? This is a good opportunity to discuss the flexibility of the Constitution.

3. A lawyer could observe the class and react to the class decisions and express his/her choices or help in interpreting the specific rights.

4. This is a good opportunity to compare how the colonists felt just before the revolutionary war when Great Britain tried to control them after years of "non interference." Discussion involving when it is important to "fight" for your rights should involve consideration of both the costs and potential benefits.

A VISITOR FROM OUTER SPACE

It is the year 1993, and you are living a settled, prosperous life. You are quietly watching television with your family when a special news bulletin comes over the TV station. You immediately see that this is not the normal type of news bulletin because there is what looks like a very strange creature on the screen - the only thing which is familiar is that he is speaking in English. He tells you that he and his people have gained control over all of the communication networks in the United States and that everyone had better pay attention to what he has to say. You change the channel - just as he said - there he is on every station. He begins to speak very loudly, and you gather your family around because you are beginning to worry about what he is going to do. His speech is as follows:

"My name is STHGIR and I am from the planet NOITUTITSNOC in another galaxy where the inhabitants are far superior to the beings on this planet EARTH. Just as we have gained control over the communications of the United States, we have the ability to take complete control over every one of your lives. We do not want a war between our planet and yours, but we do want to control some things so that we can live in peace and harmony with you. We have looked at some of your laws and the way your government operates and have found it to give too much freedom to the individual. Therefore, we are going to conduct a survey to try and arrive at a decision with which both you and I are happy. As I have said, I do not want to take everything away from you - but I can't allow you to continue to live as you have in the past. Therefore, I am giving you a list of ten of the rights which you have according to your Constitution. You are to look over the list and decide which of the ten are more important to you. I will allow you to keep FIVE of the ten rights, the five which get the most votes from all the citizens of the United States. Choose five rights and be prepared to vote. If the vote is <u>not</u> unanimous (everyone agrees), you will be given a short time to reach a unanimous decision. If you cannot, you will lose all of these freedoms.

_____ Right to bear arms.

_____ Right of freedom of speech.

_____ Right to a lawyer.

_____ Right to protection from cruel and unusual punishment.

_____ Right to freedom of press.

_____ Right to a jury trial.

_____ Right to freedom of religion.

_____ Right to peacefully assemble.

_____ Right to privacy.

_____ Protection from self-incrimination.

5. After the students have reported on their choices, ask them to discuss their feelings about the consensus process. What are some reasons for having a structure which requires everyone to agree, not just the "majority" (half plus one).

Adapted from Responsibilities and Rights in Schools, 1978, by Donald P. Vetter and Linda Ford of the Carroll County Public Schools, Westminster, Maryland 21157. Reprinted with permission.

NO VEHICLES IN THE PARK: INTERPRETING THE LAW

Introduction

How are laws made? How difficult is it to write a law that everyone understands? How are laws interpreted? This simple activity explores the purpose and intent of law and helps students realize that good laws are difficult to write.

Objectives

- To compare and contrast the "Letter of the Law" and intent of the law by using critical thinking skills in judging the hypotheticals.
- To become aware of the difficulties in devising clear, fair laws.
- To understand the role of an attorney (to present the best argument for whatever side he/she represents).

Materials

Handout: No Vehicles in the Park
Resource Person: Attorney

Procedure

1. Distribute the handout to each member of the class. Once students have read the basic law and noted which exceptions they would grant, count them off into small groups of 4-5 students each.

2. Ask each group to discuss their responses and try to reach a consensus. Tell each group that it will be expected to give reasons for each answer. Groups should choose one or more spokespersons.

   The groups will need about 10 to 15 minutes to arrive at decisions for the cases. During this time (once the instructor has quickly checked to make sure that each group is functioning properly), a grid should be drawn on the board. The grid should list the case numbers along one axis and the group numbers along the other.

3. Once groups have arrived at their answers, the instructor records responses for each case, group by group, in the grid, and asks for the rationale. At this time, you may wish to use additional examples, e.g., electric wheelchair, skateboards, motorbike. By this time, students probably have developed a definition of a vehicle.

4. In the debriefing, ask students whether the law can be redrafted to avoid the inconsistencies which now plague it. Should laws be written in detail so that citizens can predict accurately what they mean? Should they be flexible so that they can be adapted to meet changing situations? Can they be both?

How should "emergency" situations be provided for in the law? Who should determine what constitutes an emergency?

What is an appropriate penalty for violation of this law? Should that be included in the law? Who should enforce the law? Is there any remedy available to citizens if the enforcers of the law break the law?

Point out how the decisions of the group reflect reasons based on: (1) the letter of the law; (2) what they thought the intent of the lawmakers actually was; and (3) their own sense of values.

* A lawyer should be invited to react to the students' interpretations and to help the students develop arguments on both sides of each case.

Please note: An extension activity for "No Vehicles in the Park" follows the student handout.

NO VEHICLES IN THE PARK

The town of Beautifica has established a lovely park in the city. The city council wished to preserve some elements of nature, undisturbed by city noise, traffic, pollution and crowding. It is a place where citizens can go and find grass, trees, flowers, and quiet. In addition, there are playgrounds and picnic areas. At all entrances to the park the following sign has been posted:

"NO VEHICLES IN THE PARK"

The law seems clear but some disputes have arisen over the interpretation of the law. Interpret the law in the attached cases keeping in mind the letter of the law as well as the intent of the law.

1. John Smith lives on one side of the town and works on the other side. He will save 10 minutes if he drives through the park.

2. There are many trash barrels in the park so that people may deposit their litter, thereby keeping the park clean. The sanitation department wants to go in to collect the trash.

3. Two police cars are chasing a suspected bank robber. If one cuts through the park, he can get in front of the suspect's car and trap him between the patrol cars.

4. An ambulance has a dying car accident victim in it and is racing to the hospital. The shortest route is through the park.

5. Some of the children who visit the park want to ride their bicycles there.

6. Mrs. Thomas wants to take her baby to the park in his baby buggy.

7. A monument to the town's citizens who died in the Vietnam War is being constructed. A tank, donated by the government, is to be placed beside the monument.

Activity developed by Harriet Bickelman Joseph. Reprinted in Street Law: A Course in Practical Law, 2nd Edition. Reprinted with permission.

EXTENSION ACTIVITY FOR "NO VEHICLES IN THE PARK"

Introduction

After participating in the "No Vehicles in the Park" activity, students often have a greater appreciation of how difficult it is to write good legislation. This extension activity is designed to help students understand that individual needs and attitudes have a tremendous influence on how people view legislation.

Objectives

- To help students understand why different people have opposing views on legislation.
- To enable students to discuss reasons why interest groups form.

Materials

3x5 role play cards

Procedure

1. After the grid has been completed for "No Vehicles in the Park," distribute one role-play card to each student. Each card describes a person in Beautifica and his/her view on the law.

2. Instruct the students to carefully read their card and give them 5-10 minutes to share the information on the card with as many students in the class as possible in the time allotted. The purpose of this sharing is to enable each student to hear several other points of view on the law. More than one student will have each role, so it is important to instruct the students to only listen to a role that is different from their own.

3. In the debriefing, ask the following questions:
   a. Does the law need to be changed? Why/why not?
   b. What are the different views that citizens in Beautifica hold about the law?
   c. How can we explain why so many people seem to have differing points of view about the law?
   d. How can the city council reach a compromise on the new law if so many people disagree?
   e. Were there any people whose positions seemed close to others?

f. How could this help the city council to reach a compromise? A brief discussion about the necessity of coalitions could be useful here.

g. Would it be helpful for some people in Beautifica to get together and present their views to the city council as a group, instead of as individuals? Discuss the "strength in numbers" element of interest group formation.

4. Resource Person: This lesson provides a good opportunity to invite a local legislator to speak to the class. The legislator could react to the students answers to the debriefing questions, and discuss the impact of interest groups on the legislative process.

ROLES FOR EXTENSION ACTIVITY

Write out each one of these on a 3x5 card. Duplicates will be necessary.

1. I am the chief of police. Lately, my job has been more difficult because the town is growing and I don't have enough police to patrol all areas. The park is quiet now. There aren't rowdy parties or other disturbing events. I believe this is because people can't drive in the park and get rowdy. I am in favor of keeping the law the way it is, as long as police cars are able to drive in this park when chasing suspects.

2. I am the president of a new group called "People for a More Beautiful Beautifica." My group wants the park to be for families to have picnics. I am sick of teenagers trying to get together in the park and make trouble. I don't want any vehicles in the park, especially skateboards and motorskooters because I think the park will become a hangout for kids.

3. I am the fire chief. Several times in the last year my ambulance drivers had to break the law to drive through the park on the way to the hospital. I don't want to tell the drivers to break the law, but it is important for them to be able to drive into the park. I think the law should be changed to allow government cars, like ambulances, to drive through the park.

4. I am the art teacher in the local high school. Several of my students like to go to the park to sketch. Dragging their easels and paints from the nearest parking lot is very difficult for them. I think they should be able to drive into the park with their painting supplies.

5. My name is Michael. My friends and I received skateboards in the last year. The park has some really great hills and is clearly the best place to skateboard in the town. I am mad that the police always tell me to leave the park whenever I bring my skateboard. After all, Beautifica is my town too. I think that skateboarding should be allowed in the park.

6. My name is Betty Thomas and I like to jog in the park because it is quiet and safe. Whenever I jog in other parts of the town, rowdy kids on skateboards get in my way. I don't want any vehicles in the park.

7. I am a bird watcher and spend several hours a week looking for rare birds in the park. I love the park because it is quiet. The birds like the park too because they are not scared away by loud noises. I don't want any vehicles in the park because they would scare away the birds.

8. As a new father, I like to take my baby for walks in the buggy in the park. Last week, a policewoman told me to keep the buggy out of the park because it is a vehicle. I am furious. Since when is a baby buggy a vehicle? This is the dumbest law I have ever heard of and I want it changed.

9. I am John Smith. I work very hard and am looking for ways to shorten my day. I want to drive through the park so I can get to work faster. I leave for work very early, no one is in the park at that hour anyway. I want the law changed so I can drive through the park. After all, I pay taxes to keep up the park. Why shouldn't I be able to use it too?

10. I am the leader of a local bicycle club. My club is always looking for new places to ride that are quiet and pretty. The park has a bike path that was built before the city council passed the no vehicle law. Now I can't ride my bike in the park because it is a vehicle. I am angry and want the law changed.

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CLAIM YOUR POWERS

Introduction

Students usually understand the idea of separation of powers but often have difficulty remembering the role of each branch of government. This game will reinforce knowledge of the powers of each branch and at the same time make review of the first three articles of the Constitution enjoyable.

Objectives

- To reinforce the distinctions among the three branches of government.
- To increase understanding of the powers of each branch of government as delineated in Articles I, II and III of the Constitution.

Materials

Three reversible signs with "CLAIM" and "DO NOT CLAIM" written on opposite sides

Copies of U.S. Constitution

Procedure

1. Divide the class into three groups representing the executive, legislative and judicial branches of government. Explain that the purpose of this game is to review the first three articles of the Constitution. For the first ten minutes, have the legislative group review Article I; the executive group, Article II; and the judicial group, Article III from their textbooks. Each group should note the powers given its branch during this review. If this would be too difficult for your students, give them a list of the powers and have them review the meaning of each or have them complete lists at home.

2. Give each group a sign with "CLAIM" and "DO NOT CLAIM" written on opposite sides. Next, tell the class that they will hear a series of situations, each involving a power of one or more branches of government. After each situation is read, groups will have one minute to discuss the situation and refer to their list to decide if the power resides with their branch of government. At the end of the minute, read the situation again and say, "Claim your powers." Each group must then hold up its sign to show "CLAIM" or "DO NOT CLAIM" on the count of three. Each group should be able to explain the reason for its decision or support the decision with a quote from the Constitution. Groups can not change their original response.

3. Scoring:
   -- Two points for correctly claiming and justifying the claim of a power.
   -- One point for correctly voting not to claim a power.
   -- A zero for incorrectly claiming or not claiming a power.

4. Present the situations. Record the scores for each situation on the board by duplicating the grid on the scoring sheet.

5. A lawyer might be asked to participate by judging student rationales and explaining various procedures that are referred to in that lesson.

SIMULATION GAME

Situations

1. A bill is to be considered requiring the minimum wage to increase.
2. A case is being appealed from the Texas Supreme Court.
3. The United States needs an ambassador to Argentina.
4. There is a vacancy on the Supreme Court and a new justice must be appointed.
5. The United States has decided to recognize the new Republic of Xanadu.
6. The state of Arizona is suing California over water rights.
7. The army wants more money for tanks.
8. A law recently passed by the state of Louisiana has been challenged as being unconstitutional.
9. Ralph Z. has been charged with the federal crime of transporting stolen automobiles from Texas to Oklahoma.
10. Impeachment proceedings have been brought against the President.
11. A bill is being vetoed.
12. A State of the Union message is being prepared.
13. An ambassador from a foreign country has been arrested.
14. A law is declared null and void.
15. War is declared on Transylvania.
16. A federal income tax increase is being debated.
17. A treaty with a foreign country to import oil is being negotiated.
18. A case has arisen over a collision between a U.S. naval vessel and a privately-owned freighter.
19. There is a dispute over land between two Indian tribes who claim the land was given to each of them under separate treaties.

SCORING SHEET

SITUATION

	Judicial		Executive		Legislative	
	C	NC	C	NC	C	NC
1.		1	2		2	
2.	2			1		1
3.		1	2		2	
4.		1	2		2	
5.		1	2			1
6.	2			1		1
7.		1	2		2	
8.	2			1		1
9.	2			1		1
10.		1		1	2	
11.		1	2			1
12.		1	2			1
13.	2			1		1
14.	2			1		1
15.		1		1	2	
16.		1		1	2	
17.		1	2		2	
18.	2			1		1
19.	2			1		1

*** BONUS POINTS ***
For Situations:

9. Give the executive branch 3 bonus points if it claims this power and gives as its reason the power to enforce laws (The FBI would probably arrest Ralph Z.).
10. Give the legislative branch 3 bonus points if it claims this power and gives as its reason its power of impeachment.
    Give the judicial branch 3 bonus points if it claims this power and gives as its reason that the Chief Justice presides during the trial.

NOTE: There are other possible bonus-point situations. If students suggest other reasonable claims to a power, award points accordingly. Since this might throw off the equal sums for each branch (30 possible for each as currently written and scored), the groups could be told that the winner will be the group which comes closest to its total possible points.

Adapted from an activity from Law in a Changing Society Project, State Bar of Texas.

MINDWALK THROUGH THE SCHOOL DAY

Introduction

There are over 100,000 different governments in the United States, yet often students only learn about the federal government. This activity introduces the concept of federalism and asks students to use their daily activities as an avenue toward understanding the powers and roles of different governments.

Objective

- To show that local, state and federal governments all possess power in the American Constitutional system.
- To delineate between the constitutional powers of federal/state governments.
- To help students understand that governmental powers overlap.

Materials

None required.

Procedure

1. Ask students to describe all of the activities associated with school that they can think of, including both academic and non-academic pursuits. Make a list on the board of the activities they describe.

2. For each activity, ask the students to describe one "rule" related to that particular activity that must be followed. For example, they must pass a constitution test, they need to have shots, they have to attend school, they must take certain courses, etc.

3. Now ask them to identify who passed the rule and who enforces the rule. (They will need a lot of help with this.) The goal is to identify that several rules come from the federal government, but that most come from the state and local government.

4. Ask them to explain why so many different governments would want to make rules on the same topic (i.e., education). Introduce the concept of federalism. Explain that power is divided in the United States between several different types of governments with divisions that are not always crystal clear. Often, they tend to overlap. The "marble cake" analogy often works well to explain this. Federalism creates a "wavy" dividing line between different governments, looking much like the lines of flavoring in a marble cake.

5. Ask the students to cite the advantages of having so many different governments in the United States. Most often, students will mention that one government can often "check" another, preventing an abuse of power and/or individual rights. This provides a good opportunity to discuss why power should be separated, not just within a government (i.e., the executive, legislative and judicial branches) but between different governments.

6. Ask the students to identify disadvantages of the number of governments in the United States. Such things as cost, power struggles, etc., tend to come up.

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BILL OF RIGHTS CASES

Introduction

"No unreasonable search and seizure, free speech, no cruel and unusual punishment." These phrases from the Bill of Rights are often seen by students as just more information to memorize. To truly understand the importance of the protections in the Bill of Rights, students must be asked to apply and discuss the amendments. This activity is designed to help them do just that - apply the amendments to hypothetical situations and discuss their importance.

Objectives

- Students will learn what rights are contained in the Bill of Rights.
- Students will learn that many of the rights are not absolute and that exceptions are allowed.
- Students will identify which part of a particular amendment is related to each specific situation.

Materials

Handout: Ten Hypothetical Situations

Procedures

1. Either in small groups, or individually, have the students read each situations and decide if it contains a violation of the Bill of Rights.
2. After they have completed the situations, ask them to discuss which ones were violations and which situations were constitutional. A number of questions related to the connection between the amendments could also be posed. Asking students to categorize the amendments (protects people in court, protects the right to make your own decisions etc...) is a useful way to enable them to learn the amendments.
3. Resource Person: An attorney could help discuss the correct answers and the rationale for the protections.

Read each of the following hypothetical situations and decide if they contain a violation of the Bill of Rights. For each, write the number of the amendment and the appropriate phrases from the amendment that prove the case is a violation or not.

1. A 20 year old college student starts his own newspaper which often prints articles making fun of the local mayor. The mayor is angry, and gets his aides to take the papers off the stands before they can be distributed.

2. A woman is being tried for murder. The district attorney forces her to take the stand and testify.

3. A student wears a button to school urging people to vote for a certain candidate for President of the United States. Some other students don't like the candidate and go to the principal asking asking him to force the student to take off the button. The principal refuses to tell the student to remove the button.

4. A dentist is being sued for $500,000. He wants a jury to hear the case but the judge refuses his request.

5. A young woman is being tried for treason. The judge believes it would be dangerous to let the public hear her ideas. He refused to allow anyone to view the trial.

6. A group of teenagers gather on a street corner. They are talking quietly. Neighbors complain and ask the police to arrest them for getting together as a group. The police refuse.

7. A town needs more land to build a new elementary school. A woman's property is needed, but she wants to keep it. The town forces her to sell and gives her twice the property's actual value. She sues to get her land back.

8. The government tries a man for murder and loses the case. A jury says he is innocent. The government is mad and promises to keep trying him until they get a jury to convict him. He thinks this is unfair.

9. The Postmaster General of the United States has a cross and a nativity scene installed at all Post Offices throughout the country during Christmas time.Government funds are being used to purchase the cross and nativity scene. The major of a predominently Jewish town demands that the cross and nativity scene be removed from her town.

10. A man living on a quiet residential street erects a giant billboard on his front lawn. The billboard has neon lights advertising a new breakfast cereal. The city has a zoning law against this type of sign in a residential neighborhood and demands that it be removed.

Answer Key

1. Is a violation of the student's 1st amendment rights to free press.

2. Is a violation of the woman's 5th amendment right against self-incrimination.

3. Is not a violation. The principal behaved in a constitutional manner by refusing to violate the student's 1st amendment right of free speech (wearing a political button is considered political speech.)

4. Is a violation. The 7th amendment guarantees the right to a jury trial in civil cases where the value in controversy exceeds $20.00.

5. Is a violation. The 6th amendment guarantees the right to a public trial.

6. Is not a violation. The police were upholding the teenagers's 1st amendment right to assemble by refusing to arrest them for standing on the street corner.

7. Is not a violation. The 5th amendment allows the government to take private property for public use, as long as the owner receives a fair price.

8. Is a violation. The 5th amendment prohibits being tried twice for the same crime.

9. Is a violation of the 1st amendment which forbids the government to establish a religion.

10. Is not a violation of the 1st amendment. This type of zoning law is constitutional. Local governments have the right to enact reasonable zoning laws.

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HANDGUN CONTROL

Introduction

Guns, especially handguns, figure prominently in crime after crime. It has been estimated that about half of all American families possess at least one firearm in the home. And the nation's gun supply is growing. Today, Americans own more than 45 million handguns.

Over the last 20 years, national public opinion surveys have indicated that Americans throughout the nation and from all walks of life are supportive of stricter handgun laws. For example, a 1985 Gallup Poll found that 78% of non-gun owners and 61% of gun owners favor requiring the registration of handguns. However, even though the public favors stricter controls, a majority of Americans oppose an outright ban on the sale or possession of handguns.

The Second Amendment states, "A well-regulated militia, being necessary to the security of a free state, the right of the people to keep and bare arms, shall not be infringed." Let's consider the interpretation of this statement.

Objectives

- To consider local, state and national lawmaking powers.
- To be aware of the common pro/con arguments regarding gun control.

Materials

3 x 5 cards with "Handgun Control: Pro/Con Arguments"
Discussion Questions for "Handgun Control: Pro/Con Arguments"
Handout: Proposed Handgun Legislation
Checklist

Procedure

Activity 1

1. Distribute the 16 arguments for and against handgun control to individual students or pairs of students.
2. Students without statements should categorize each statement as for or against gun control as the statements are read aloud by each student.
3. After listening to the 16 arguments, ask students if there are any additional arguments to be made.
4. The teacher may then use the discussion questions in class. Students could debate the issue.

Activity 2

1. Have the students read the proposed handgun legislation and applied the checklist?
2. Ask "Would [they] vote for these bills if [they] were members of Congress?"
3. A legislator or lobbyist could be asked to discuss recent legislation or concentrate on the proposed bills presented. A lawyer could be asked to comment on presenting the best arguments for/against handgun legislation.

HANDGUN CONTROL: PRO/CON ARGUMENTS

Those opposed to stronger handgun control laws say...

1. American citizens have a legal right to own handguns under the Second Amendment of the Bill of Rights.

2. Americans have owned handguns throughout our country's history. New handgun controls would destroy this time-honored tradition.

3. Stronger gun control laws will make it more difficult for citizens to protect themselves and their families. Crime is a threat to everyone and the police are not usually around when a criminal appears.

4. There is no evidence which proves that existing gun control laws have reduced crime and violence. New York City has the strongest handgun control law in the nation, yet crime and violence are more serious there than in many other cities without strong gun laws.

5. Longer prison terms and the death penalty should be imposed more frequently on criminals who use handguns. This will reduce crime more effectively than additional gun control regulations."Guns do not kill, people do."

6. Additional gun control laws will be difficult to enforce. Criminals will still be able to get handguns illegally.

7. Even if gun control laws do reduce the use of handguns, criminals will simply shift to other weapons.

8. 20,000 federal, state and local gun control laws already exist. Additional laws will place too much of a burden on sportsmen and other law-abiding citizens.

HANDGUN CONTROL: PRO/CON ARGUMENTS

Those in favor of stronger handgun control laws say...

1. The U.S. Supreme Court has ruled several times that the Second Amendment guarantees states the right to maintain militias, not private citizens the right to own guns.

2. Americans may have been forced to own handguns for self-protection when this country was an uncivilized wilderness. But today, modern police departments exist to protect the public.

3. A person who possesses a handgun for protection is more likely to be killed with his own gun by a relative or friend, than a person who does not own a handgun is likely to be killed by a criminal. The best protection is <u>not</u> to have a hand gun in the home.

4. We have never had strong gun control laws covering the entire nation. Making handguns more difficult to obtain in the U.S. should significantly reduce crime and violence.

5. Crimes committed with guns occur so often today because handguns are so easily available. Criminals will continue to frequently use guns as long as there is little control over their sale and possession.

6. Strong registration and licensing requirements will make it more difficult for criminals to quickly and legally buy handguns. Those criminals who do manage to get guns unlawfully will face additional penalties for illegal sale and possession.

7. Guns are more fatal than other weapons. A person shot with a gun is five times more likely to die than a person stabbed with a knife.

8. The main purpose of handguns is to kill people. Because so many handguns exist in the U.S., more people die by gunfire in this country each year than in all the countries of the world combined.

HANDGUN CONTROL: PRO/CON ARGUMENTS
Questions for Discussion

1. What is the best argument for stronger handgun control laws? What is the best argument against stronger handgun control laws?

2. Do you think stronger handgun control would be likely to help or hurt crime victims? Explain.

3. How do you feel about a law which would forbid the private ownership of handguns altogether?

4. Find out from your local police department or public library what state and local gun control laws exist in your area.

5. Rank in order 1-6 the following strategies to help crime victims. Rank the strategies from most to least desirable according to your point of view. Compare your ranking with those prepared by your classmates.
   - more handgun controls
   - more victim compensation
   - stiffer prison terms
   - more use of the death penalty
   - stronger police departments
   - better enforcement of fraud laws

PROPOSED HANDGUN LEGISLATION

Proposed Bill #1

The government may not enact any laws that in any way prohibit the sale, purchase and/or ownership of handguns.

Proposed Bill #2

The following are mandatory sentences whenever a crime is committed with a handgun:

1. Any crime that results in the death of an individual: LIFE IMPRISONMENT;

2. Any crime where a handgun is used: 3 TIMES THE NORMAL JAIL SENTENCE; and

3. Any crime where the defendant carries a handgun but does not use it: 2 TIMES THE NORMAL JAIL SENTENCE.

PROPOSED BILL #3

In order to buy a handgun or ammunition, a person must have a license. In order to obtain a license, a person must:

1. Be at least 21 years old;
2. Complete 25 hours of classroom instruction taught by police departments on how to use handguns;
3. Pass a written test (similar to a test for a driver's license);
4. Not have a criminal record; and
5. Be mentally sound.

Proposed Bill #4

The following handgun taxes should be enacted:

1. Manufacturers of handguns must pay a tax of $200.00 for each handgun they produce;
2. Dealers of handguns must pay a tax of $100.00 for each handgun they sell;
3. Buyers of handguns must pay a tax of $50.00 for each handgun they purchase; and
4. There will be a tax of $10.00/bullet.

Proposed Bill #5

By January 1, 1990, all persons must give up their handguns. The government will pay the owner the 1987 fair market value for the gun. Anybody who is found with a gun after January 1, 1990, will pay a $1,000,000 fine.

CHECKLIST

_____ says who or which groups will be expected to obey it

_____ if applicable, states the penalty for a person or group that disobeys

_____ is enforceable

_____ is fair

_____ has no vague words or phrases

_____ explains the meaning of words that people might not understand

_____ does not conflict with another law

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THE DEATH PENALTY: EIGHTH AMENDMENT

Introduction

Capital punishment is subject to continual debate in the United States. The Eighth Amendment forbids "cruel and unusual" punishment. Is the death penalty cruel and unusual?

Objectives

- To view the reasons given for and against the use of capital punishment in the U.S.
- To explore people's attitudes regarding the use of capital punishment.

Materials

Handout: Activity 1: - What is Your Opinion of the Death Penalty? Survey
Optional Handout: Activity 2 - Conducting a Survey
Handout for Debate: Arguments in Favor of/Against the Death Penalty
Reading to use as a springboard for activities: The Death Penalty

Procedure

1. Have students read and discuss "The Death Penalty" article.
2. Select one or both of the activities to complete.

Activity 1:

1. Have students complete the opinion survey individually.
2. Select some of the statements, i.e., 1, 2, 9 to consider various students' responses.
3. Draw a line on the floor or across the chalkboard:

EXAMPLE:

1_____2_____3_____4_____5_____

1=Strongly agree with the statement
2=Tend to agree with the statement
3=Undecided
4=Tend to disagree with the statement
5=Strongly disagree with the statement

4. Ask for 6 student volunteers to position themselves along the line based on their opinion (you may want to use moveable chairs).

5. Once students are in place, ask others in the class to "think" for the students in the line. Ask "Why do you think Student A is standing where he is? After several responses, ask Student A if anyone has given his reason. This can be repeated for the other students on the line.
6. The students may then give arguments to see if they can convince anyone to change his position on the line.
7. The teacher may also play "devil's advocate" to attempt to get students to change their opinions.
8. Students can then consider:
   a. What arguments are convincing?
   b. What additional information would they need to know to be well informed on the subject?
9. This discussion can lead to Activity 2.

Activity 2: Conducting a Survey

1. Have students react to the survey attached.
2. Have students develop a survey of three questions or give them three questions:

Example:

   a. Do you favor or oppose the death penalty?
   b. Since most states have a death penalty, what method would be most acceptable to you: electric chair, gas, lethal injection, other?
   c. A person who is found guilty of committing murder is the only one who should receive the death penalty.

3. Each student should interview five others.
4. Survey results should be tallied and discussed:
   a. What are the results of the survey?
   b. Why do you think these are the results?
   c. Did the results surprise you? Why or why not?
   d. What did you learn from doing the survey?

Activity 3: Student Debate

1. A student debate should be conducted using the handout, "Arguments in Favor of/Against the Death Penalty."

SUGGESTION: Invite a lawyer to participate in any of the activities to act as the devil's advocate, to react to arguments and survey results, to judge debate or to clarify State law.

WHAT IS YOUR OPINION OF THE DEATH PENALTY?

The death penalty is a very controversial issue. The statements below describe some common attitudes toward capital punishment. As you begin to think about this subject, read each statement below and record your reactions on a separate sheet of paper. Use these categories: (1) Strongly Agree; (2) Agree; (3) Undecided; (4) Disagree; or (5) Strongly Disagree.

Keep this paper as reference as you will refer to it at the end of the lesson.

DIRECTIONS: Check your responses to the following statements by marking the appropriate box below:

Statement	Strongly Agree	Agree	Undecided	Disagree	Strongly Disagree
1. Killing people who commit murder keeps other people from doing the same.					
2. A person who commits murder or some other serious crime should pay with his own life.					
3. "An eye for an eye and a tooth for a tooth" is what justice means.					
4. Taxpayers should not be expected to pay for the upkeep of prisoners who have committed murder.					

Statement	Strongly Agree	Agree	Undecided	Disagree	Strongly Disagree
5. Some people cannot be allowed in society because they are too dangerous. These people should be executed.					
6. Anyone who places value on human life cannot approve of capital punishment.					
7. People are basically evil and must be punished for wrong-doing or they will continue to do wrong.					
8. "Thou shalt not Kill" means that even criminals should not be executed.					
9. People are basically good and even the worst criminal can be rehabilitated.					
10. People are a mixture of good and bad, and it's hard to make a final decision about anyone. This means capital punishment is wrong.					

DEBATE: "ARGUMENTS IN FAVOR OF/AGAINST THE DEATH PENALTY"

Arguments in Favor of the Death Penalty

1. The existence of capital punishment deters people from committing serious crimes. It is hard to say how well this "deterrent effect" works, but because legislatures in many states have studied the problem and decided that it does work, the Supreme Court must agree with them.

2. If a person takes another's life, he should pay for the act by giving up his own life. "An eye for an eye and a tooth for a tooth." This is in accordance with the punishment purpose of the criminal justice system.

3. Capital punishment is in accordance with "due process of law." It is reserved for only the most serious crimes. Jurors are told to consider it very carefully and there are many steps in the appeals process.

4. Some people are so bad that they cannot be rehabilitated enough to live in society. Those who have committed serious crimes should be executed to make sure they never harm anyone again.

5. Capital punishment is allowed by the Bill of Rights itself. The Fifth Amendment says that no person shall be deprived "of life, liberty, or property without due process of law." These statutes give them "due process of law" prior to sentencing them to death.

Arguments Against the Death Penalty

1. Capital punishment has no deterrent effect. In states which have abolished the death penalty, murder rates have declined or remained the same. Most people who commit crimes do not believe they will be caught, while many others want to be punished. These people will not be deterred.

2. Capital punishment is a wrongdoing on top of a wrongdoing. It does not help the victim of the original crime, causes loss to the family of the accused and embarrasses all civilized people. Besides, locking a criminal up for the rest of his life is punishment enough.

3. Capital punishment involves so much chance and arbitrary decision-making that it is like a lottery rather than "due process of law." Chance is involved in the prosecutor's choice of which crime to charge the accused with, and whether or not to plea bargain. It comes into play in a jury's view of the defendant and the crime, in the choice of an appeals judge of whether or not to review the case and in a governor's decision whether or not to grant clemency. This is too much chance when a person's life is at stake.

4. Life imprisonment without chance of parole would keep criminals who could not be rehabilitated off the street just as well as executing them would. Studies have shown that most murders are committed by people who are unlikely ever to do it again, so they are not usually the most dangerous people, but may be the most easily rehabilitated.

5. Although capital punishment may not be specifically prohibited in the Constitution, customs and conditions have changed during the past few years. It cannot be doubted that slavery is no longer acceptable in the United States, but it was protected by the Bill of Rights and the Constitution when they were adopted. Just as slavery is no longer acceptable, the death penalty is now considered "cruel and unusual" punishment and should be outlawed.

Adapted from Criminal Justice in America, Constitutional Rights Foundation, 1983

JUST THE FACTS: JUDICIAL BRANCH AND THE LAW

Introduction

This lesson allows the students to become the teacher and share their knowledge of the judiciary and interpretations of law with their peers. Be sure to give them some time to understand their fact and consider the best way to teach it. You might want to demonstrate by teaching one fact before they begin.

Objectives

- To get an overview of concepts and facts to be learned in a unit on the judicial branch.
- To provide specific facts and information on the judicial branch.
- To reinforce the importance of peer teaching.

Materials

Sufficient 3x5 cards for participants (1 card per participant). Two sets of information are included. Select those facts you wish to include.

Procedure

1. Prepare "Fact Cards." Each card should contain one piece of information or fact that the student will share with other participants.
2. Hand out one 3x5 card to each participant on a random basis. Either give every student a different fact or select ten facts (which would give two or three students the same information to teach).
3. Tell the participants that they are going to be given an unusual test - they, in fact, will be the test items themselves.
4. Each participant should spend a few minutes familiarizing himself with the information on his card. Each person has ten minutes to "teach" or transfer his knowledge <u>verbally</u> to as many other participants as possible and also to listen in order to learn facts from the other participants. The teacher should circulate around the room to help with the activity.
5. Debriefing the whole activity can be done by asking a series of questions such as:
   a. What did you learn?
   b. What did you learn about: the Constitution, the Courts, your rights?
   c. What did you learn that surprised you?
   d. What information is not clear?
   e. What information did you learn best? Why?

6. (In u ing these questions you may begin investigating some of them further by clarifying them and/or speculating on why "that" is true and/or if it should be true.) The questions generated can be sent to a lawyer in preparation for a class visit.

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HUMAN FACT ACTIVITY - SET 1

(Basic information about the Constitution, Article III, and the Court)

The U.S. Constitution adopted in 1787 did not have a Bill of Rights.

The Supreme Court has the power to decide whether actions of the President and Congress are legal (Judicial Review).

There are 9 Supreme Court Justices (judges) who decide cases by a majority vote.

A law to punish a person for something that was not against the law when he did it is called an ex post facto law.

The Supreme Court deals with "issues of law."

The Supreme Court is the highest Court in the United States.

The Judicial Branch of government is headed by the Chief Justice.

The Chief Justice of the Supreme Court is William Rehnquist.

To become a Supreme Court Justice you must be appointed by the President and approved by the Senate.

A Supreme Court Justice has a lifetime term of office.

Sandra Day O'Connor is the first woman Supreme Court Justice.

There are 3 major types of federal Courts: Supreme Court, Court of Appeals, and District Courts.

An order making a police officer show that a man is in jail for a good reason is called a writ of habeas corpus.

John Jay was the first Chief Justice of the Supreme Court.

The Chief Justice who did the most to increase the power of the Supreme Court was Chief Justice John Marshall.

The Supreme Court selects most of the cases it wants to hear from those that have been sent on appeal.

The Judicial Branch of government is described in Article III of the Constitution.

Decisions of the Supreme Court usually can be found in the newspaper on Tuesday of every week from October through June.

HUMAN FACT ACTIVITY - SET 2

(Facts about the Bill of Rights and Supreme Court interpretations.)

A jury must consist of six people or more.

In Illinois, to find a person guilty of a crime, the entire jury must agree that he is guilty.

From 1900-1967, a juvenile did not have the right to a lawyer in court.

A man accused of a crime has the right to hear the witnesses against him.

Most states today allow the death penalty to be used as punishment.

The Supreme Court agreed that some children do not have to go to school after 8th grade because it is against their religion.

A person does not have to testify against himself in court.

The police do not always need a search warrant to search a house.

A school law which would permit teachers to start the day with a class prayer is not constitutional.

Usually a juvenile does not have the right to bail.

Before 1963, a poor person accused of a crime would probably have to represent himself in court.

The Supreme Court does not decide whether a person is guilty or innocent in cases on appeal.

The courts may not take a person's life without due process of law.

States have the right to regulate gun ownership.

If a police officer stops you on the street because she suspects you might have committed a crime, she does not have to read you your rights.

Under our laws, a person can not say anything he wants even though we have freedom of speech.

It is possible for a juvenile to be tried in an adult court.

SHOULD JUVENILES BE TRANSFERRED?

Introduction

At one time in our history, little distinction was made in charging and sentencing adults and juveniles. In the early 1900's, reformers attempted to improve the lot of juvenile offenders. Today, the tendency is to again make laws that would sometimes allow certain juvenile offenders to be treated like adults. Should the Constitution guarantee equal rights and responsibilities to all regardless of age?

Objectives

- To compare and contrast the adult and juvenile legal system.
- To consider due process as it applies to juveniles.

Materials

Handout: Transfer Hearing Case Studies

Questions for Debriefing

Handout: Transfer Provision in the Illinois Juvenile Court Act

Procedure

1. Begin by discussing whether young people who commit crimes should be treated as adults under the law. Should they be tried as adults? If convicted, should they be punished like adults?

2. Explain that juveniles who commit crimes are in fact treated differently than adults. Note that the goals of the criminal justice system are punishment and rehabilitation of criminals, protection of society and deterrence of others from criminal activity. However, the juvenile justice system (as it relates to youngsters involved in crime) is designed primarily to rehabilitate juveniles and to protect society from their delinquent acts.

3. A good example of the non-punitive, rehabilitative nature of the juvenile justice system is in the vocabulary used within it. Make a list like the one below on a chalkboard or on a transparency for overhead projection. Fill in the Criminal Justice System side first, then the Juvenile Justice System blanks (see EXAMPLE).

EXAMPLE

CRIMINAL JUSTICE SYSTEM	JUVENILE JUSTICE SYSTEM
Crime	Delinquent act
Arrest	Take into custody
File charges	Petition
Plead not guilty	Deny involvement
Plead guilty	Admit involvement
Trial	Adjudicatory hearing
Verdict of guilty	Finding of delinquency
Sentencing hearing	Dispositional hearing
Sentence	Disposition

4. Explain that under the Juvenile Court Act of Illinois and in many other states, juveniles who commit serious crimes may sometimes be transferred to the adult Criminal Court for prosecution (and, if they are convicted, for sentencing). Brainstorm and list the criteria that students think should be applied in deciding whether to transfer juveniles to the adult criminal justice system. Compare their list with the criteria specified in Section 702-7(3)(a) of Illinois Juvenile Code (write this Section on a sheet of butcher block paper before this lesson so it can be taped onto the chalkboard next to the students' list). What considerations that students believe are important in transfer cases are reflected in the Juvenile Court Act? Which are not?

5. Divide students into five groups of five and distribute the transfer cases. Assign two students in each group to play the role of state's attorneys and 2 others to play the roles of defense attorneys. Have them read their assigned case and develop arguments for or against the transfer of the juvenile in question. Have one student act as the judge and determine whether the case will remain in Juvenile Court or be sent to adult court.

6. Invite a state's attorney and/or a public defender from the Juvenile Court or a lawyer familiar with juvenile issues to act as judges. They should:
   (a) decide, based strictly on the arguments presented to them, whether the juveniles should be transferred;
   (b) tell what they think the outcome of the cases would probably be in real life;
   (c) discuss how they would have used the facts of the cases to support an argument for or against transfer.

TRANSFER HEARING CASE STUDIES

Case #1

Name: Tim Sugino
Age: 16
Charge: Motor Vehicle Theft

Circumstances:

Late one Thursday night, Sugino and a 19-year old friend hot-wired an expensive sports car parked in the garage of an apartment complex where both worked as maintenance persons, and drove the car 120 miles to an oceanside resort. The theft was discovered approximately 48 hours later when the two young men were taken into custody.

Previous Record:

Three recorded detentions by police, all within the last 18 months, two for curfew violations, one for underage drinking. Released in all three instances.

Personal Background:

Junior in high school with an average attendance record. Only child, father deceased, lives with mother who works as librarian. Part-time work since age 14, fired from current job as a result of incident. One psychologist's report indicates normal profile, another suggests serious emotional disturbance as a result of father's death.

Case #2

Name: Linda Dubrensky
Age: 15
Charge: Selling Narcotics

Circumstances:

Dubrensky was taken into custody as a result of a police undercover operation in a local community college where she was not enrolled. After selling small amounts of heroin to police agents posing as students, Dubrensky volunteered to set up a major purchase for agents. In the middle of this $100,000 transaction, both Dubrensky and her 35-year old supplier were arrested.

Previous Record:

Two recorded police contacts, one for curfew violation, one prior adjudication for possession of narcotics (heroin). Served three months in the County Home for Girls; six months participation in a program for drug abusers.

Personal Background:

School records indicate a moderate rate of truancy, a bright student who does not work up to potential. Family of two children, mother, step-father; mother works as a tax accountant, step-father is aerospace engineer, currently unemployed; both are members of Alcoholics Anonymous. No work record. Medical report indicates that Dubrensky is addicted to heroin.

Case 3

Name: Martin Robinson
Age: 14
Charge: Armed Robbery, First Degree Murder

Circumstances:

Robinson and three other juveniles, two armed with handguns, robbed a local market. One owner pulled a weapon and, in the following shoot-out, the owner, a 66-year old woman, was killed. Robinson was not armed and did not shoot the woman, but he did most of the talking during the robbery. Robinson and two others, both 14 years old, were apprehended shortly after the incident.

Personal Background:

School records indicate high rate of truancy. Family of three children, mother, and grandmother. The mother works as a waitress. No steady job. Psychiatric report indicates severe emotional disturbance.

Case #4

Name: Patricia Ann Warner
Age: 15
Charge: Breaking and Entering, Burglary

Circumstances:

Warner and her 20-year old boyfriend broke through back windows of a local electronics shop after neutralizing the alarm. Police on patrol detected the crime in progress. Warner was apprehended carrying two video cassette recorders to the car; her boyfriend was picked up several blocks away after attempting to escape. In the car, police found a home computer, portable stereo players and other equipment with an estimated total value of over $7000.

Previous Record:

Two prior detentions for questioning by police, one resulted when Warner and a 32-year old female companion were picked up for selling dinnerware from the back of a van. Neither female had a bill of sale for the merchandise. Because of her youth, Warner was released without charge; her companion was cited for peddling without a liscense, a misdemeanor. One juvenile adjudication for marijuana possession. Spent ten weeks enrolled in a diversion program.

Personal Background:

School records indicate high rate of truancy, poor scholastic achievement probably caused by minor learning disability. Oldest of four children, both parents present and employed at blue collar jobs. No work record. Psychological reports indicate emotional instability and suggest the possibility of child abuse in the Warner home.

Case #5

Name: Danny Maestas
Age: 16
Charge: Assaulting a police officer

Circumstances:

Police claim that when they stopped Maestas on suspicion of drunk driving, he became belligerent and verbally abusive. He took a swing at one officer, which failed to connect. Both officers had to physically subdue him. Maestas claims that the officers pulled him over for no reason. Both officers, he alleges, were verbally abusive and he admits responding in kind when one officer made ethnic slurs. At that point, according to Maestas, the officer hit him. Realizing the possible consequences, Maestas did not resist in any way. The officer slugged him three more times, twice in the kidneys. When booked, Maestas showed signs of having been beaten. Tests revealed the boy had no alcohol in his system.

Previous Record:

Four prior detentions by police for questioning, none resulted in any charges.

Personal Background:

School records indicate moderate rate of truancy, average scholastic achievement. Family of four children, one of whom is away at school, another is in the army; both parents present, father employed in automobile factory. No work record.

QUESTIONS FOR DEBRIEFING

1. Is there a general agreement about which juveniles should be tried as adults? Is there a general agreement about the reasons for these decisions?

2. Based on the circumstances and nature of their alleged crime, which juveniles represent the clearest threat to the community? Which are least harmful?

3. Based on their prior records and personal backgrounds, which juveniles are most potentially harmful?

4. Of these two factors, crime and background, which was most important to your decisions?

5. Which of these juveniles do you think should be punished? Which should be rehabilitated? Which seem most, and least, likely to respond to the rehabilitative treatments available in the juvenile justice system?

6. In adult court, these cases will be tried by jury unless the defendants waive their right to a jury trial. Do you think any of these juveniles would benefit by a jury trial? Why or why not?

7. What is the youngest age at which juvenile courts should be allowed to waive their jurisdiction? Why?

8. Are there any circumstances under which juvenile courts should not be allowed to waive jurisdiction?

TRANSFER PROVISION IN THE ILLINOIS JUVENILE COURT ACT

In making a decision on a motion to transfer a juvenile to the Criminal Court for prosecution, Juvenile Court judges must consider (among other things):

(1) Whether there is enough evidence that a grand jury could be expected to return an indictment;

(2) Whether the alleged offense was committed in an aggressive and premeditated way;

(3) The minor's age;

(4) The minor's previous history;

(5) Whether there are facilities particularly available to the Juvenile Court for the treatment and rehabilitation of the minor; and

(6) Whether the best interest of the minor and the security of the public require that the minor remain in custody or under supervision after he or she reaches the age of majority.

IL. Rev. Stat. Ch.37, S702-7(3)(a).

NOTE: 15- or 16-year old minors who are charged with murder, rape, deviate sexual assault or an armed robbery committed with a firearm are now automatically transferred to the Criminal Court in Illinois for prosecution.

IL. Rev. Stat. Ch.37, S702-7(6)(a)

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THE PEOPLE V. WARD

Introduction

The Mock Trial script will give students an understanding of the "due process" elements that take place during a criminal trial. The right to a lawyer, an impartial judge and jury, presentation and confrontation of witnesses and the need to prove guilt using the "beyond a reasonable doubt" are standard in a criminal case. While the steps of a trial and the roles of participants are presented, this activity is not designed to teach all the intricacies of court procedure.

Objectives

- To become familiar with the steps in a trial that attempt to insure the accused a fair trial.
- To gain awareness of the adversarial system and roles each party takes.

Materials

Mock Trial Background for Role-Players, People v. Ward

Procedure

1. Assign parts. Note a number of lawyer parts have been created to give many students an opportunity to participate. Students not involved in the actual case should be assigned the role of jurors and/or the duty of setting up the mock courtroom, if possible.
2. After students have had an opportunity to review their parts, they should enact the trial.
3. A lawyer may be invited to take part as the judge or asked to read the background facts and be prepared to discuss the trial steps with students after they have completed the case.

PARTS TO BE ASSIGNED:

LAWYERS

Prosecution	Defense
1	1
2	2
3	3
4	4
5	5
6	6

WITNESSES

Louis Hampton	Elaine Gordon
Sally Turman	Adam Rivers

JUDGE

BAILIFF

12 JURORS

MEMBER OF THE TEAM OF PROSECUTING ATTORNEYS

As a prosecuting attorney, your purpose is to show that Thomas Ward is guilty beyond a reasonable doubt of felony murder. To do this, you will want to show that the following elements of the offense occurred:

A. Ward and/or his friends attempted to take money from Alvin Fry...the deceased, against his will and by means of force or fear;

B. Ward knew about the robbery and/or about the possibility of one being committed and was involved in the attempt to rob Fry when he was killed.

You must prove "beyond a reasonable" doubt that both of the above "elements of the offense" took place in order to convict Thomas Ward of murder.

You will want to call witnesses who can testify to Mr. Ward's activities, and to anything which may reveal his knowledge, intentions, and actions regarding the alleged attempted robbery. You will also want to cross-examine defense witnesses in order to clarify and/or discredit their testimony. You should be aware that defense witnesses will give testimony which may be interpreted in such a way as to strengthen your case. You should be alert for the opportunities to cross-examine defense witnesses on points critical to your case.

In attempting to prove that defendant Ward's conduct meets the "elements of the offense" of felony-murder, you might want to ask witnesses questions such as the following:

- Was a robbery planned? If so, did the murder take place as a result of the attempt to commit the robbery? (Direct: Hampton)

- Did Ward's actions in and around the bus or bus stop suggest that he intended to rob Fry? (Direct: Hampton)

- Did Ward participate in a robbery attempt against Fry? (Direct: Turman)

- Did Ward threaten Fry? (Direct: Turman)

- Did Ward have knowledge of the presence of a gun and of the possibility of its being used? (Direct: Turman)

During the trial, the judge will call upon you to make statements to the court and examine witnesses. Keep your remarks and questions clear, concise and to the point. Your team of attorneys should be prepared to do the following:

- Make an opening statement to the court explaining what you believe the facts of the case will show as you present them. Concentrate on your own position and ignore your opponent's at this point.

- Conduct a direct examination of your prosecution witnesses in order to bring out the facts which support your case.

- Conduct cross examinations of defense witnesses in order to weaken the case of the opposing side and strengthen your own case. Do not harass or lead witnesses.

- Make a closing statement to the court summarizing what the facts you have presented show and why you believe you have proven your case. You may also tell the jury why they should reach a verdict of guilty.

LOUIS HAMPTON, Prosecution Witness #1

As a witness for the prosecution, you will testify to the following facts:

You are 17 years old and a student at Central High School.

About 4:30 p.m. on November 3, 1986, you were waiting at the bus stop at 8th and Central Streets for the #2 bus. About five other young men were waiting there, too. The defendant was one of those men.

You heard the men talking about a movie and a gun. One said, "Let's get us some money" and the defendant said, "Yeah, Tom, you can ask on the bus." Then they all laughed a lot.

When the bus came, they got on ahead of you. You sat near the back of the bus near the victim. One of the young men who was sitting next to the victim said to the victim, "Shut up," and then, "How much money do you have?" The victim said, "None." Then the victim stood up and a fight started. You observed the five men hitting the victim.

When the bus came to a stop, everyone was pushing and shoving to get off. A lot of people were yelling and screaming.

After you got off the bus, the victim was still standing up inside the bus. The defendant said to him, "You better look out, man." Then one of the men who had been at the bus stop with you put a gun to the window, pointed it at the victim, shot him, and ran away. You saw the victim fall and the defendant run away with the other men who were at the bus stop.

SALLY TURMAN, Prosecution Witness #2

As a witness for the prosecution, you will testify to the following facts:

You are 16 years old and employed as a stock clerk.

On November 6, 1986, about 4:30 p.m., you boarded the #2 bus at 7th and Central Streets.

At the next stop, a group of young men including the defendant got on the bus. One sat next to the victim. The defendant stood up and held onto the overhead railing.

The man seated next to the victim argued with him. He hit the victim. The victim started to get up and the defendant said to him, "Sit down, man. What's bugging you?" He said the victim got up and started to move toward the front of the bus. Then the defendant hit him with his fist. A fight started, and more passengers became involved.

When the bus came to the next stop, everyone tried to get off. There was panic. The fight stopped. You got off the bus as did most of the people who were in the fight. You observed, however, the defendant standing in the doorway of the bus. He was looking back toward the victim who was standing in the aisle.

One of the men who had been fighting was standing outside the bus near you. You believe this man yelled to the defendant something about a gun. You decided to get away from there. Several seconds later you heard a shot. You did not look back in the direction of the shot and didn't see who fired the gun.

MEMBER OF THE TEAM OF DEFENSE ATTORNEYS

As defense attorney, your purpose is to show that Thomas Ward is not guilty "beyond a reasonable doubt" of the crime of murder. To do this, you will want to bring evidence to the jurors' attention showing that his conduct does not meet the "elements of the offense" beyond a reasonable doubt. In other words, you will try to show that either one or both of the following "elements of the offense" did not occur:

A. Thomas Ward did not attempt to take money from Alvin Fry, the deceased, against his will, and by means of force or fear.

B. Thomas Ward did not know about the robbery and/or about the possibility of robbery being committed, and was not involved in a robbery or an attempted robbery when Fry was killed.

Thomas Ward, therefore, cannot be found guilty.

You will want to call witnesses who can testify to Ward's activities, or to anything which may reveal that the defendant's knowledge, intentions and actions did not meet the "elements of the offense." In addition, you may wish to cross-examine witnesses called by the prosecuting attorney in order to clarify or discredit their statements on behalf of your client. You should also be aware that prosecution witnesses will give testimony which may be interpreted in such a way as to strengthen your case. You should be alert for these opportunities to cross-examine prosecution witnesses on points critical to your case.

In showing that Ward's conduct does not meet the "elements of the offense," you might want to ask witnesses about the following matters:

- Was the discussion of a robbery at the bus stop a joke or a serious discussion? (Cross: Hampton)
- Did Ward have reason to believe that the presence of a gun indicated a robbery was to be committed?
- Was Ward provoked into a fight by Fry? (Direct: Gordon)
- Was Ward threatened by Fry? (Direct: Gordon)
- Did Ward's misbehavior show youthful high spirits that got out of hand, or did it indicate criminal intent? (Cross: Hampton)
- Did Ward have knowledge that Stanton was going to rob Fry and did Ward aid him in doing so? (Cross: Hampton)

- Can witnesses positively identify Ward as the person who committed any of the acts which occurred at the scene of the crime? (Cross: Turman)

During the trial, the judge will call upon you to make a statement to the court and examine witnesses. Keep your remarks and questions clear, concise, and to the point. Your team of attorneys should be prepared to do the following:

- Make an opening statement to the court explaining what you believe the facts of the case will show as you present them. Concentrate on your own position and ignore your opponent's at his point in the case.

- Conduct a direct examination of your defense witnesses in order to bring out the facts which support your case.

- Conduct cross examinations of prosecution witnesses in order to weaken the case of the opposing side and strengthen your own case. Do not harass or lead witnesses.

- Make a closing statement to the court summarizing what the facts you have presented show and why you believe you have proven your case. You may also tell the jury why they should reach a verdict of innocent.

ELAINE GORDON, Defense Witness #1

As a witness for the defense, you will testify to the following facts:

You are 35 years old and are employed as an accountant.

You were sitting on the bus several seats diagonally behind the victim. Before the fight broke out you saw the victim sitting down. Then you saw him standing up and fighting with about five men. You saw the victim hitting them with his hands and kicking them with his feet.

When the bus stopped, everyone started to jump off. You saw one of the men who had been fighting but had left the bus put a gun to the window. The victim tried to duck, but he couldn't. You heard a shot and saw the victim fall.

The man who had fired the gun was not the defendant. He was still on the bus at the time the shot was fired.

ADAM RIVERS, Defense Witness #2

As a witness for the defense, you will testify to the following facts. You may refuse to answer any questions that might incriminate you personally.

You are 24 years old and employed as a deliveryman for a grocery store.

On November 3, 1986, you went to the Woods Theater downtown with Thomas Ward, the defendant, Zachary Taylor, Peter Brand, and one other fellow, Tom Stanton. During the movie, Thomas Ward and Tom Stanton were passing a gun back and forth. Tom joked about shooting the gun and Ward told him to "cool it."

After the movie, the group caught the #2 bus. You were riding in the back of the bus.

While you were on the bus, you heard Tom Stanton ask the victim for money in a loud voice. The victim said he didn't have any money. Tom Stanton hit the victim. Then Tom, Peter Brand, and the victim stood up and started fighting. Then, the victim hit Thomas Ward.

The bus stopped with people screaming and pushing to get out. The back door opened and everyone got off except Ward, who stood in the doorway still holding his side and looking at the victim. You believe the victim punched him or kicked him real hard in the side and that is why he seemed to be bent over.

You saw Peter Brand standing outside the bus on the sidewalk. He grabbed Tom Stanton's gun from under Stanton's jacket and fired it at the victim. He then laughed and started running. The rest of your group followed him.

JUDGE

Your role is to preside over the trial. You will be responsible for deciding whether or not (1) the attorneys are using fair procedures; and (2) the evidence being presented is admissible. You are also to discipline anyone who causes unreasonable disruptions during the trial, citing them for contempt if necessary. You should use common sense if you are not sure about legal procedures. The following guidelines may help you.

- Start the trial by identifying the parties in the case. For example, "The court is now in session. The court will hear People v. Ward , Judge _____ presiding. Make sure the jury is seated.

- Make the following announcement: "We will assume that the witnesses have already taken the oath regarding the truth of their testimony."

- Ask whether the prosecution and defense are ready to present their cases.

- Ask the team of prosecuting attorney(s) to make their opening statement. Then ask the team of defense attorney(s) to make their opening statement.

- After the defense attorney(s) have made their statements, ask the prosecution to call its witnesses.

- As each witness is called, remind him/her that he/she is still under oath.

- After the prosecutor finishes questioning each witness, allow the defense lawyer to cross-examine each one.

- When the prosecutor ends his/her presentation, ask the team of defense attorney(s) to call its witnesses.

- After the defense attorneys finish questioning each witness, allow the prosecuting attorneys to cross-examine each one.

- After both sides have completed their presentations, permit the defense and then prosecuting attorneys to make their closing statements to the jury.

- When the closing statements are completed, read the following instructions to the jurors:

JUDGE: Neither by these instructions nor by any ruling or remark which I have made do I mean to indicate any facts or opinion as to what your verdict should be. Thomas Ward, the defendant, is accused of murder under the State's Felony Murder Law. You should keep in mind that no person should be convicted of a crime unless there is proof beyond a reasonable doubt that the defendant has

committed that crime. In order to return a verdict of guilty in this case, you must be convinced, beyond a reasonable doubt, that: (A) the defendant, Ward, and/or his friends, intended or attempted to take money from Alvin Fry against his will and by means of force or fear; (B) defendant Ward planned to commit the crime of robbery. If you find both these points to be true, you may also find Ward guilty of the murder of Fry. Under State law, the verdict of the jury must be unanimous. Please now withdraw and begin your deliberations. As a jury member, your job is to make a fair decision in this case. You must reach a unanimous decision. The jury may retire to deliberate its verdict.

JUDGE

1. As a judge, would you find the accused guilty or not gulity? Why?

2. Why did you believe or disbelieve the following witnesses?

   Hampton, Prosecution Witness #1:

   Turman, Prosecution Witness #2:

   Gordon, Defense Witness #1:

   Rivers, Defense Witness #2:

3. Did the lawyers present arguments which influenced you? If so, which ones? If not, why not?

4. Did you agree with the verdict of the jury? If not, what factors might account for the difference in your verdict and the jury's verdict?

5. In your opinion, did the defendant receive a fair trial? Why or why not?

MEMBERS OF THE JURY

As a jury member, your job is to make a fair and unprejudiced decision in the case. After reading the facts of the case, if you feel you cannot do this, you should disqualify yourself as a jury member. You must listen carefully during the trial. You are not permitted to discuss the case with the other jury members prior to the close of the attorneys' presentations.

At the end of the trial, the judge will give the jury instructions how to decide the case. You should listen to the instructions carefully as they must be used in helping you to decide on the guilt or innocence of the defendant.

Before you attempt to reach a verdict, select a jury foreperson. This person will speak for the entire jury. At the beginning of the deliberations, ask the foreperson or another member of the jury to summarize the evidence you have heard. Let other members of the group add to the summary if they desire. After the summary is completed, ask any questions you may still have. Discuss the evidence, then vote.

The jury must reach a unanimous decision in the case. If the jury fails to reach a unanimous decision, you are a "hung" jury. This means you will be dismissed without a verdict having been reached.* As a result, try hard to reach a unanimous verdict but do not sacrifice what you believe to be "true." You should be prepared to discuss your verdict and your reasons for it during the debriefing discussion following the mock trial activity.

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*The accused may be retried with another jury at a later date.

JURY DELIBERATIONS

JURY: [The jury should discuss the facts in the case and vote. When they complete this process, they will return to the courtroom and the foreperson of the jury will give the verdict to the judge.]

QUESTIONS FOR DISCUSSION

1. The jury members should be asked to respond to the following questions:

   - Why did you decide the case the way you did?

   - What role did the opening and closing remarks of the prosecuting and defense play in your decision?

   - Did you feel confused when the testimony of different witnesses appeared to conflict?

   - Which witnesses seemed to be most believable to you? Why?

   - Did you use the Judge's instructions in making your decision? Why or why not?

2. Class members should respond to the following questions:

   - What were the two elements of the offense in this case?

   - Do you think the prosecution presented sufficient evidence to meet the standards regarding the elements of the offense?

   - Do you think the jury considered the elements of the offense in this case?

   - Do you agree or disagree with the verdict of the jury? Why or why not?

3. According to the law, when anyone is involved with a group of people and one of the group commits a crime such as murder, all members of the group share equal responsibility for that crime.

   - How do you feel about this definition of responsibility under the law?

   - What might be some justifications for defining responsibility in this way?

   - Can you think of circumstances where exceptions should be made to this rule? If so, what are they and why should they be exceptions? If not, why not?

4. What effect might the quality or abilities of the attorney(s) have upon a case? What kind of attorney would you like to represent you in a similar situation? Why?

5. Why do you suppose each major event...opening remarks, prosecution's case, defense's case, closing statements, is included in a trial? Why do you suppose they occur in the order that they do?

6. Although many of the witnesses agreed on the basic facts of the case, they differed on some important details.

   - What factors might account for these differences if all of the people witnessed the same event?

   - Do these differences make you suspicious about the truth and accuracy of different witnesses? Why or why not?

   - If people witnessing the same event report seeing different things, how can a jury decide what is the truth ?

7. When more than one person is involved in a crime, the defendants may be tried as a group.

   - What might be some advantages and disadvantages of a group trial for the prosecution?...the defense?

   - What problems might a jury have in making a decision in a case in which several defendants are tried together?

   - Why do you think Mr. Ward was tried separately?

8. What standards are used to determine whether a person accused of a crime is guilty or not guilty? Why do you suppose this is the case? Do you feel such standards are necessary? If so, why? If not, what would you suggest to replace them?

9. Based on this simulation activity, how do you feel about our trial system and courts? What do you think are the strengths and weaknesses of our court system?

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THE STRETCHING CONSTITUTION

Introduction

Televisions, videogames, 50 states, airplanes, cars. All of these things did not exist when the Constitution was written in 1787. Yet, today there are many constitutional laws regulating them. How can that be? This activity helps students understand the "living Constitution" by asking them to use their daily activities as an avenue toward exploring the elastic clause.

Objectives

- Students will identify how their lives are effected by laws and regulations.
- Students will learn the intent and effect of the elastic clause.
- Students will discuss how the elastic clause provides for legislation/regulations on topics that were not anticipated in 1787.

Materials

Handout: copy of the elastic clause (last paragraph of Article 1, Section 8 of the federal Constitution)

Procedure

1. Pre-class activity: Instruct the students to keep a one-day diary of their activities. Ask them to make a list of at least ten activities they participated in, giving them a few examples, such as "helped to make dinner, did my homework, played ball with my friends, went to school etc.."

2. Class: Ask the students to pick out five of the activities they have on their diary. List them on the board. Ask them which of the activities are in some way regulated by either the federal or state government. Go through several examples with them. For instance, brushing their teeth is effected by the Clean Water Act, the food they ate last night is regulated by the Food and Drug Administration, their teachers have to be certified by the state government, etc.

3. Small Groups: When the students seem comfortable with the process, assign them to small groups and give them 10 or 15 minutes to continue working in small groups on identifying which of their listed activities are regulated. Once they have completed this, ask them to look at the original list on the board. Which of the activities on the board would not have been engaged in during the 1780's? They will need a lot of help with this. It will be important to briefly describe what life was like in the 1780's. If they are not familiar with the lifestyles of Americans during this time, it will be useful to briefly describe some basic aspects of

historical facts related to this period. For example, there were only four million people in the United States, the average person could expect to live to age 35, the vast majority of people farmed, over half of all families had 6 or more members, few people lived in cities, education was not required, etc.

4. Mini-lecture: Ask the students how their activites could be constitutionally regulated today when they could not have been anticipated in 1787 by the writers of the Constitution. Introduce the concept of constitutional flexibility by explaining the elastic clause. The actual language of the elastic clause should be available to the students.

5. Teacher or resource person: Now either the teacher, a local legislator or an attorney can explain the constitutional basis for the activities that were originally put on the board.

6. Extension Activity: A possible extension activity would be to ask the students to speculate about what issues will confront American society in the future. Will the elastic clause allow the government to respond to these specific issues?

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HUMAN BOOK ON CIVIL LAW

Introduction

This activity is designed to help students understand that the law is limited in its ability to solve all social problems. Although some of these problems can best be resolved in the judicial system, the students will undoubtedly feel that others can be solved in another way.

Objectives

- The students will identify which problems are best solved through the legal system and which problems can be more effectively addressed in another way.

- The students will learn that many people, agencies etc., help people to solve problems and resolve disputes.

Materials

3x5 cards with one piece of information on each card.

One or two resource people (civil lawyer, consumer protection representative, family lawyer, media hotline person)

Note: Send information to resource person(s) in advance so they know what they will be expected to discuss. Resource people probably will not be able to answer all the participants' questions. Ask them ways of obtaining the information.

Procedure

1. Each participant is given one 3 x 5 card with a piece of information about a person who may have need of the law. Tell participants that the piece of information is only part of the story.

2. Each one must find the other people who have the missing pieces of information. Once the group has formed, a recorder who will report the group's deliberation should be chosen. Cards should be read aloud. Then the group should decide on the order of the cards and answer the following questions (about 10 minutes):

   a. What happened? What are the facts?
   b. What can be done by each interested party? List as many options as the group can generate.
   c. What does the group consider to be the best choice for each person?
   d. What other information would be helpful in deciding?
   e. How might the legal system respond to this problem? How should it?

3. Have each group report on its deliberations and allow the resource people to respond to the groups.

   a. What does the law (case or statute, etc.) have to say about this problem?
   b. What agencies, and/or other people, if any, might help to resolve this situation?
   c. How realistic was the group's decision?
   d. Suggestions on other ways to help resolve the problem.

4. Note to teacher: In many of these cases, although the law has ways to assist in resolving the conflict, often the law might be considered a last resort. It is important to give the group a sense that law is only one tool for resolving human problems and often not the best tool.

JIMMY 1 of 4
Everyone knew the path and used it to go down to the old swimming hole. For 8 of his 16 years, Jimmy and all of his friends had used it to go swimming and fishing down by the river.

JIMMY 1 of 4
Today, however, when Jimmy went to take the path he saw a "No Trespassing" sign.

JIMMY 1 of 4
Jimmy said, "Oh, heck" and continued down the path to the river to swim.

JIMMY 1 of 4
Jimmy fell into a hole on the path that was covered with branches and broke his leg.

MARY AND JOHN 1 of 4
Mary and John have been dating. Their relationship has become more and more serious. Both of them are liberated people. They are not considering marriage at this time, but they do want to have an enduring relationship.

MARY AND JOHN 1 of 4
John's best friend, Jim, is also in love with Mary and is trying to break up the relationship.

MARY AND JOHN 1 of 4
Mary is told by Jim that John has a communicable disease and that she should cease her relationship with John, and instead enter into a more compatible relationship with him.

MARY AND JOHN 1 of 4
John finds out about his best friend's words with Mary and feels that this is very serious and that his reputation has been severely damaged. John is going to sue Jim.

HANK 1 of 4
Hank recently retired. He now travels the garage circuit, picking up "treasures" from all over the neighborhood.

HANK 1 of 4
Hank has such an enormous stock of "treasures" that he must pile them in his backyard.

HANK 1 of 4
Hank's neighbors are terribly upset because the yard has become an eyesore. What can the neighbors do?

HANK 1 of 4
The neighbors want Hank to get rid of his junk.

BILLY 1 of 4
Billy was out playing baseball.

BILLY 1 of 4
Billy saw Jim, a long time enemy, coming across the field.

BILLY 1 of 4
Billy shouted at Jim and threw a baseball at Jim's head, but missed. The ball, instead, hit the neighbor's window and broke it.

BILLY 1 of 4
Billy is known for his short temper and has been in many fights.

SHEIK 1 of 5
An Arabian sheik purchases a mansion in a prestigious area of the city.

SHEIK 1 of 5
The sheik's house becomes a tourist attraction and, according to the neighbors, is a circus.

SHEIK 1 of 5
The sheik's house is constantly visited by sightseers.

SHEIK 1 of 5
The sightseers come to see the sheik's house at all hours because the house is lit up.

SHEIK 1 of 5
The neighbors want the sheik's house returned to the original state and say that they have been unduly harmed by the sheik's house. Prices have gone down in the neighborhood.

GEORGE AND MARY 1 of 5
George and Mary are a young couple who have recently bought a home and have always cared about animals.

GEORGE AND MARY 1 of 5
They have only one dog, but somehow the strays in the neighborhood seem to find their way to George and Mary's house.

GEORGE AND MARY 1 of 5
George and Mary have taken in many strays and sometimes have as many as 10 dogs and 15 cats in the house.

GEORGE AND MARY 1 of 5
George and Mary have recently acquired a talking myhna bird and have a portion of their house set up to house homeless birds.

GEORGE AND MARY 1 of 5
George and Mary's neighbors object strongly.

DONNA 1 of 5
Donna, a minor, has been married for three weeks.

DONNA 1 of 5
Donna's parents wish to annul the marriage.

DONNA 1 of 5
Donna and her husband have known each other for two years.

DONNA 1 of 5
Donna's husband is 30 years old and a salesman.

DONNA 1 of 5
Donna is pregnant.

JANE 1 of 5
Jane has always been self-conscious about her hair and attempts to do a number of things to improve her looks.

JANE 1 of 5
Believing that blondes do have more fun, Jane bleaches her hair. The bleach, however, causes her hair to become extremely brittle and she finds that she must crop her hair severly.

JANE 1 of 5
Jane's cropped hair is straight and very unattractive. In an attempt to create a more feminine appearance, Jane purchases a home permanent kit. Her hair falls out.

JANE 1 of 5
Jane is faced with the obvious choice of wearing a scarf for several months or purchasing a wig. Jane goes to a reputable wig store and purchases a wig. After wearing the wig for 24 hours, her face breaks out into red blotches.

JANE 1 of 5
Jane is currently a receptionist and finds herself embarrassed about her physical appearance. She asks to take an extended sick leave. Her boss cannot spare her and, as a result, fires her.

PETER 1 of 5
Peter has just rented an apartment and brought his air conditioner with him.

PETER 1 of 5
Peter plugs in the air conditioner and blows a fuse.

PETER 1 of 5
Peter calls an electrician.

PETER 1 of 5
The electrician informs Peter that the wiring is faulty and, in fact, the whole apartment needs to be rewired because of the fire hazard.

PETER 1 of 5
Peter notifies the landlord, but the landlord refuses to do anything.

KOW WANG 1 of 5
Kow Wang is a Buddhist and a vegetarian.

KOW WANG 1 of 5
Kow Wang is from Viet Nam and has five children, ages 2 to 13.

KOW WANG 1 of 5
Kow Wang attempts to rent an apartment and is dressed in Vietnamese garb.

KOW WANG 1 of 5
Kow Wang speaks broken English, but has a degree from a Vietnamese university.

KOW WANG 1 of 5
Kow Wang is denied the apartment.

MARIA 1 of 6
Maria has always had a large nose.

MARIA 1 of 6
Maria's dream is to become a child star.

MARIA 1 of 6
Plastic surgery seems the only answer to Maria. She knows that she will never be a star with her present nose.

MARIA 1 of 6
Maria has been performing at school functions for the past three years. She is the best singer and dancer the school has had.

MARIA 1 of 6
Maria's parents refuse to allow Maria to have the necessary operation to reduce the size of her nose.

MARIA 1 of 6
Maria breaks her nose in hopes that this will force her parents into allowing the operation.

ANGEL 1 of 5
Angel, a minor, works after school and every weekend at a drugstore.

ANGEL 1 of 5
Angel is saving her money to go to college.

ANGEL 1 of 5
Angel's father demands that she turn over all her earnings to him.

ANGEL 1 of 5
Angel thinks that her father wants to use this money to pay off a gambling debt and refuses to give him her money.

ANGEL 1 of 5
Angel's father tells her employer that he is worried that his daughter will use her money to buy drugs and asks her employer to send her paycheck directly to him so that hecan save it for her.

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CALL THE POLICE

Introduction

Students often think that legal restrictions are placed on them but not on those who enforce the law. This lesson gives them an opportunity to consider how rules, laws and court decisions also effect the police. A number of rights included in the Bill of Rights can be discussed in the debriefing of the activities.

Objectives

- To gain a better understanding of what it is like to be a police officer in modern American society.
- To show how the Constitution relates to the role and responsibility of the police officer.

Materials

"Police Manual"
Handout for Teacher/Police: Specific Constitutional Issues for Each Scene (for Situation Role Play)
Handout: Situation Role-Play
Resource Person: Police Officer

Procedure

1. The teacher should contact the local police organization and arrange for two officers to visit the class, if possible. A planning session or sharing of the materials should take place to review the lesson.

2. The teacher may wish to do Activity 1 on the day before the police are scheduled to come so that police characteristics can be quickly reviewed.

Activity 1

1. Break the class into four groups. Ask them to imagine having to write a want ad for an ideal police officer. List 5-10 adjectives which describe the PERFECT police officer. Write the list on the chalkboard. If a group has already suggested the word, simply put a check next to the word to indicate agreement. The police officers should also compile a list to share with the students at the end of the activity.

Example: "WANTED: Someone to help and protect our community. Must be..." (If they have problems, start them out with a few suggestions, e.g., 'strong,' 'smart,' etc.) After words are listed on the chalkboard, have the police officer pick top characteristics and explain why they would be important.

Activity 2

1. Say to the students, "Now that we have some idea of what a model officer is, let's see what the police officer would look like in action. We are going to role-play some typical situations. Most of them do not involve a violent crime. All of them will involve typical encounters with young people in and around school. Some students will take the role of police officers, some will act out the situations and others may act as observers."

2. Two students from each group should form a new group to be "trained" by the police officers. The police officers will review the "Police Manual" with the 8 student officers. Students in the original groups should be given the description of the role-play situation so that they can prepare their roles. The two police officers assigned to that group should be given their "police call." Give each group 10 minutes to plan their scene.

NOTE: It has been found that students are more comfortable if at least two of the role plays are enacted at once. Students and adults should be assigned to observe the role plays.

3. Debriefing should then take place using the following questions:

   - What are the facts of the situation? What happened?
   - Was the situation realistic? Has anyone ever known anyone to be involved in a similar situation? How did the role-players feel? How do you think people really involved in this situation would feel/act?
   - Did the police officers exhibit the "characteristics" most important in a police officer? How did the role-players feel? What would have helped them be better police officers? What kind of training or support could help?
   - Have the police officers talk about similar situations and how he/she handled them. What laws was he/she enforcing? What restrictions are placed on him/her in the work done?

4. Repeat procedure for each scene. Each scene should take about 15 minutes including the question and answer discussion period.

POLICE OFFICERS' MANUAL

THE POLICE OFFICERS' DUTY

"As a law enforcement officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence and disorder; and respect the Constitutional rights of all men to liberty, equality and justice."

DEPARTMENTAL REGULATIONS

1. You cannot use unnecessary force, and your firearm can only be used in self-defense or to protect another's life;

2a. You must always make an arrest if:
- you serve an arrest warrant
- a citizen signs a complaint for a citizen's arrest;

b. You may make an arrest if:
- there is "probable cause" to believe a person has broken a law (or you may warn and advise or issue a citation).

3. Stop-and-frisk: If you have the "probable cause" necessary to arrest a person or you have a good reason to believe a person has committed, or is about to commit, a crime - then, you may "frisk" that person. In addition to a frisk, you may search the area immediately within the person's reach for weapons.

4. Probable Cause (Fourth Amendment Requirements): This means, when applied to arrest, a strong belief based on fact that a certain person has committed a crime. To make an arrest, you must have probable cause.

For Example: You see a person running out of a building with a typewriter being chased by someone yelling, "Stop, thief!"

Probable cause also applies to searches and seizures and is required for obtaining a search warrant or for making a search under certain exceptions when a search warrant is not required. (These exceptions involve situations when requiring a search warrant is impossible or would spoil all chances of seizing the evidence.)

For Example: Because a car which contains evidence can be moved out of reach in the time it would take to get a warrant, there is a "moving vehicle exception" to the warrant requirement. Probable cause, however, is still essential. And even when the "moving car exception" would apply - you have stopped a car for "hit and run" - if you do not have evidence that narcotics are in the car, you cannot search for and seize them.

5. Miranda Warning (Fifth Amendment Requirements): When you make an arrest, but before you can interrogate a suspect about the criminal behavior involved, you must make the following statement:
   a. You have the right to remain silent.
   b. Anything you say can and will be used against you in a court of law.
   c. You have the right to talk to a lawyer and have him/her present with you while you are being questioned.
   d. If you cannot afford to hire a lawyer, one will be appointed to represent you before you are questioned, if you wish one.

   WAIVER: A person who has been given his/her Miranda Warning may say he/she is willing to talk. In such a case, you must ask these questions and get a "yes" answer before you can interrogate the suspect:
   e. Do you understand each of these rights which I have explained to you?
   f. Having these rights in mind, do you wish to talk to us now?

CAUTIONS
* Always be on guard to protect yourself, your partner and other citizens from attack and injury.
* Handcuff anyone you take into custody.
* Be prepared for unusual public reactions when you are present.
* Treat all people firmly and fairly.
* Treat all people equally: the law is "blind" to race, sex, religion or status.

SPECIFIC CONSTITUTIONAL ISSUES FOR EACH SCENE OF THE SITUATION ROLE-PLAY

Scene 1
Freedom of Assembly; Freedom of Speech (First Amendment): Rights are in question when they infringe upon others' rights.

Scene 2
If there was intent, the student may find him/herself in juvenile court. Currently, the Constitution does not guarantee all the same rights to a juvenile as it does to an adult charged with a crime. A juvenile charged in a delinquency petition does not have the right to a trial by jury or right to bail (Sixth & Eighth Amendment). Discuss the arguments for and against these exceptions. NOTE: There is a movement to change these. The Cook County Juvenile Court in Illinois actually has some court rooms with space for a jury in anticipation of a change in law.

Scene 3
Freedom from Unreasonable Search or Seizure (Fourth Amendment) will come under discussion here. Police must have a warrant to search or seize except in incidences involving:

S - Stop'n frisk

E - Emergencies

A - Arrests, abandoned property, airline or border searches

R - Right-in-plain-view

C - Cars, consent

H - Hot pursuit

A principal or authorized school person may search a locker for "reasonable cause" without a warrant because the courts have ruled that:

1) the locker is school property, not the student's; and
2) a principal or authorized school person is considered "in loco parentis" (acting in place of the parent/guardian for the good of the child).

SITUATION ROLE-PLAY

Scene 1

Situation: A group of students are loitering in front of the local hot dog stand during school hours. The owner of the hot dog stand has called the police because he feels the noise the students are making is causing him to lose customers.

ROLE-PLAY: You are with a group of your friends. You went to the hot dog stand for lunch and didn't hear the school bell. Since you were too late to get into school, you are just standing around talking to your friends. The police arrive. Now what happens?

POLICE CALL: You have been called by a local store owner because a number of students are causing a disturbance and can probably be picked up for truancy.

NOW WHAT HAPPENS?

Scene 2

Situation: A group of students are playing ball on the playground during recess. There is an argument and one of the students is pushed into the swing set. It appears that the student has a broken wrist.

ROLE-PLAY: You and your friends were playing ball. You begin to argue over the score in the ball game. A fight begins and one of you falls against the swing set and breaks his/her wrist. The principal calls the police. What happens when the police arrive?

POLICE CALL: You have been called to the school by the principal because two students have been fighting and it appears that one has been hurt.

NOW WHAT HAPPENS?

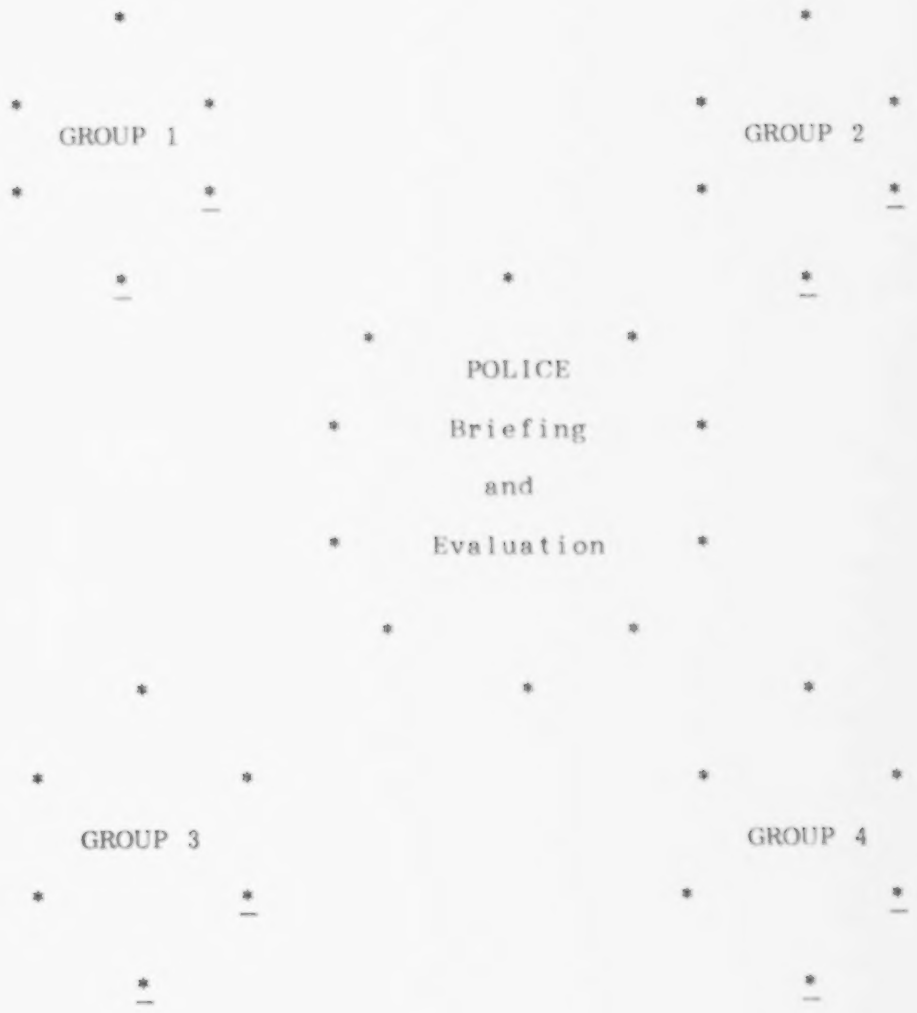
Scene 3

Situation: A parent has called the school and told the principal he has heard rumors that there are two 8th grade students selling drugs to the other students. The parent gives a description of the students but does not know their names. The principal calls the police.

ROLE-PLAY: You are sitting in your classroom when the police come to the door. They ask you and your friend to come to the principal's office to answer some questions.

POLICE CALL: You have been called by the principal because she has gotten a phone call from an irate parent telling her two 8th grade students are selling "some kind of drugs" to their classmates. You have a description of the "suspects."

NOW WHAT HAPPENS?



* Role Play Observer

Adapted from Police Patrol, Constitutional Rights Foundation, Todd Clark, Editor, Zenger Publications, Inc. 1981.

RIGHTS AT THE SCHOOLHOUSE GATE: THE TINKER CASE

Introduction

Do students have first amendment rights while in school? Does the Constitution protect a student who protests a national policy? In this activity, the famous Tinker case is used to help students understand the first amendment and how judicial reasoning is used to support court decisions.

Objectives

- To help students understand the intent of the first amendment and that free expression rights are not absolute.
- To help students understand that court decisions can overturn the actions of another governmental body, i.e., a school board.
- To distinguish between reasons supporting different sides of a constitutional issue.

Materials

Handout: Tinker Case background description and reasoning

Procedures

1. Have the students read the background to the case.

2. After discussing the facts of the case, ask the students to read through the eight reasons and make two lists as instructed at the top of the reasons. Please note that the odd-numbered reasons should be listed under right to free expression and the even-numbered reasons should be on the right to keep rules list. At some point, mention to the class that Justice Abe Fortas wrote the majority opinion (all reasons in free expression list).

3. Tell the students that the majority of justices agreed with the right to free expression side and ruled in favor of the students. However, they did not say that students could express themselves in any manner they wanted. In the majority opinion, Justice Fortas made a rule that would apply in the future. If a student's conduct, in or out of class, "materially disrupts classwork," involves substantial disorder or invades the rights of others, there is no Constitutional guarantee of freedom of speech."

4. Use the discussion questions that are listed after the case description to help students understand the case.

TINKER CASE

In our history, no war has caused more controversy than the Vietnam War. By 1965, many people were protesting the war. These protests spilled into the schools.

In Iowa, a small group of junior high and senior high students were planning to wear black armbands to protest America's involvement in the Vietnam War. The elected leaders in charge of the school had found out and passed a rule against wearing the armbands. The rule said that students would first be asked to remove the armbands, and if they refused, would be suspended from school until they stopped wearing them. Many students in the school supported the war in Vietnam and the leaders believed their reaction to the students who wore armbands would destroy the disciplined atmosphere in the classroom.

Seven students wore the armbands to school and were suspended. They did not return to school until the planned time to wear the armbands had run out. The parents of the students brought suit in a U.S. District Court against the school officials to stop them from taking disciplinary action. The students believed that the policy of prohibiting armbands in school deprived them of their constitutional rights. The judge in the U.S. District Court did not agree and he ruled in favor of the school. His main reason was that school officials have an obligation to prevent anything which might be disruptive to school discipline. Given the controversial nature of the protest, he thought that banning the armbands was reasonable.

The students were not happy with the decision. Their parents appealed to the U.S. Court of Appeals, where they lost again, and then to the U.S. Supreme Court.

REASONING ACTIVITY

Listed below you will find eight reasons used by Supreme Court judges to back up their views on the case. Divide the reasons into two lists, one for those reasons that support the right to freedom of expression and another to support the need for the schools to maintain order and keep rules.

1. "It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate."

2. "It is a myth that any person has a constitutional right to say what he pleases, where he pleases, and when he pleases."

3. "In our system, undifferentiated fear or apprehension of disturbance is not enough to overcome the right to freedom of expression."

4. "While the absence of obscene or boisterous and loud disorder perhaps justifies the Court's statement that the few armband students did not actually 'disrupt' the classwork, I think the record overwhelmingly shows that the armbands did exactly what the elected school officials and principals foresaw it would, that is, took the students' minds off their classwork and diverted them to thoughts about the highly emotional subject of the Vietnam War."

5. "Any departure from absolute regimentation may cause trouble...but our Constitution says we must take that risk...."

6. "School officials should be accorded the widest authority in maintaining discipline and good order in their institutions."

7. "School officials do not possess absolute authority over their students."

8. Those complaining would need to show that, "a particular school measure was motivated by other than legitimate school concerns--for example, a desire to prohibit the expression of an unpopular point of view, while permitting expression of the dominant opinion." In the Tinker case, he found "nothing which impugns the good faith of the repondents (school board) in promulgating the armband regulation."

Reasoning follow-up: Under each of your two lists, write down individuals or groups who would support the reasons.

(The above arguments are taken from the majority and dissenting opinion in the Tinker case. If necessary, simplify the language for your students.)

QUESTIONS FOR DISCUSSION

1. Can you briefly review the facts of the case, explaining how this case got to the Supreme Court?

2. Which amendment does this case focus on?

3. Often when making decisions, a court has to balance two competing goals. What were the competing goals in this case? (Try to draw out the students' right to free expression vs. the need of the school to maintain discipline and create an orderly learning environment.)

4. What decision did the court make in this case?

5. Go through a series of probe questions designed to help the students understand the reasoning of the court.

   - Did Justice Fortas say that any student can do whatever he wants in school?
   - What did Fortas mean when he said that "students do not shed their constitutional rights at the schoolhouse gate?"
   - What if a lot of students had made hostile comments to the students wearing armbands? Would Justice Fortas have approved of that?
   - Why is there a "rule" related to free speech in the school (no material disruption) and no similar rule in the community at large? (Try to get the students to discuss the specific goal of the school, i.e., to educate vs. the community which has no specific goal per se.)
   - What about the arguments against the students? Are the concerns of the dissenting judges valid?
   - Which side has the best reasons? Why?
   - If you were on the Supreme Court, how would you have voted?

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